

NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by first submitting to the Secretary of State's Office a Notice of Rulemaking Docket Opening followed by a Notice of Proposed Rulemaking that contains the preamble and the full text of the rules. The Secretary of State's Office publishes each Notice in the next available issue of the *Register* according to the schedule of deadlines for *Register* publication. Due to time restraints, the Secretary of State's Office will no longer edit the text of proposed rules. We will continue to make numbering and labeling changes as necessary.

Under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.), an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for adoption, amendment, or repeal of any rule. A.R.S. §§ 41-1013 and 41-1022.

NOTICE OF PROPOSED RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 23. BOARD OF PHARMACY

PREAMBLE

- | | |
|------------------------------------|---------------------------------|
| <u>1. Sections Affected</u> | <u>Rulemaking Action</u> |
| R4-23-102 | Amend |
- 2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**
- Authorizing statute: A.R.S. § 32-1905
- Implementing statute: A.R.S. § 32-1905
- 3. A list of all previous notices appearing in the Register addressing the proposed rule:**
- Notice of Rulemaking Docket Opening: 6 A.A.R. 2789, July 28, 2000
- 4. The name and address of agency personnel with whom persons may communicate regarding the rule:**
- | | |
|------------|--|
| Name: | Dean Wright, Compliance Officer |
| Address: | Board of Pharmacy
4425 West Olive Ave., Suite 140
Glendale, AZ 85302 |
| Telephone: | (623) 463-2727, Ext. 131 |
| Fax: | (623) 934-0583 |
| E-mail: | rxcop@qwest.net |
- 5. An explanation of the rule, including the agency's reasons for initiating the rule:**
- The Board's 5-year rule review in September 1997 identified Section 102 for amending. The rule addresses the subjects of Board meeting location, time, place, and frequency, office location, and the agency's annual report to the governor. The rule duplicates items addressed in statute and fails to address the exclusion of office operations on approved holidays.
- The proposed rule makes necessary style, format, and grammar changes to produce a clear, concise, and understandable document. Subsection (B) is repealed because it duplicates statutory language. Subsection (D) is repealed because the Board did not think it was necessary to put office address and hours of operation in rule.
- The Board believes that making these rules benefits the public by clarifying the purpose of Board meetings and providing for special Board meetings.

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6. A reference to any study that the agency proposes to rely on in its evaluation of or justification for the rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study, and other supporting material:

Not applicable

7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

8. The preliminary summary of the economic, small business, and consumer impact:

The rule will not have an economic impact except the cost to the Board of Pharmacy and the Secretary of State for writing and publishing the rule. The changes do not impose anything new. The rule removes duplicate language and updates and clarifies existing language. The rule does not impose any new costs on small business or consumers.

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Dean Wright, Compliance Officer
Address: Board of Pharmacy
4425 West Olive Ave., Suite 140
Glendale, AZ 85302
Telephone: (623) 463-2727, Ext. 131
Fax: (623) 934-0583
E-mail: rxcop@qwest.net

10. The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

Comments may be written or presented orally. Written comments must be received by 5:00 p.m., Monday, February 5, 2001. An oral proceeding is scheduled for:

Date: February 5, 2001
Time: 10:00 a.m.
Location: 4425 West Olive Ave., Suite 140
Glendale, AZ 85302

A person may request information about the oral proceeding by contacting the person listed in questions 4 and 9.

11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

Not applicable

12. Incorporations by reference and their location in the rules:

None

13. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 23. BOARD OF PHARMACY

ARTICLE 1. ADMINISTRATION

R4-23-102. Meetings

ARTICLE 1. ADMINISTRATION

R4-23-102. Meetings

~~A. Regular: Meetings of The Board of Pharmacy for the purpose of conducting general business and interviewing applicants for license shall be held four times each hold not less than 4 meetings per year to conduct general business and interview permit and license applicants.~~

~~B. Examination: The Board shall designate the time and place of its meetings for examination of applicants, at least 30 days prior to each meeting (A.R.S. § 32-1905).~~

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- ~~CB. Special:~~ A Special ~~meetings~~ meeting of the Board of Pharmacy may be held at any time subject to the call of the President or a majority of the Board members and in compliance with the notification requirements of A.R.S. § 38-431.02.
- ~~D. Location of office and office hours:~~ The office of the State Board of Pharmacy is, unless otherwise designated, located in Phoenix, Arizona. The office shall be kept open continuously from 8:00 o'clock A.M. until 5:00 o'clock P.M. of each day, Monday through Friday.

NOTICE OF PROPOSED RULEMAKING

TITLE 15. REVENUE

CHAPTER 7. DEPARTMENT OF REVENUE

BINGO SECTION

PREAMBLE

- | | |
|------------------------------------|---------------------------------|
| <u>1. Sections Affected</u> | <u>Rulemaking Action</u> |
| R15-7-213 | Amend |
- 2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**
- Authorizing statute: A.R.S. § 5-402
- Implementing statute: A.R.S. § 5-406
- 3. List of all previous notices appearing in the Register addressing the proposed rules:**
- Notice of Rulemaking Docket Opening: 6 A.A.R. 4123, October 27, 2000
- 4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
- | | |
|------------|---|
| Name: | Robert C. Lockwood, Tax Analyst |
| Address: | Tax Research & Analysis Section
Arizona Department of Revenue
1600 West Monroe
Phoenix, AZ 85007 |
| Telephone: | (602) 542-4672 |
| Fax: | (602) 542-4680 |
| E-mail: | lockwoodr@revenue.state.az.us |
- 5. An explanation of the rule, including the agency's reasons for initiating the rule:**
- The rule provides guidance in the verification of winning bingo cards. The proposed amendment provides that the use of bingo equipment manufactured to automatically verify bingo patterns may be used as an alternative to the verification of winning bingo patterns. The proposed amendment provides greater flexibility for bingo licensees in conducting bingo games. Portions of the rule are also rewritten to provide additional clarity. The Department is initiating the rulemaking as a result of criticism from bingo licensees.
- 6. Reference to any study that the agency proposes to rely on and its evaluation of or justification for proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:**
- None
- 7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**
- Not applicable

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8. The preliminary summary of the economic, small business, and consumer impact:

It is expected that the benefits of the amended rule will be greater than the costs. The amendment of this rule will benefit the public by providing for the use of bingo equipment to automatically verify winning bingo patterns. This is intended to increase the speed of the verification process that will allow more games to be conducted, or allow the games to be conducted in a shorter period of time. It may also increase accuracy of the verification of winning bingo patterns. This rule only provides guidance in the application of the statute. The statute provides for the game of bingo and provides that the Department may supervise its administration and amend rules governing the operating and conducting of games of bingo and the purchase of equipment. The Department will incur the costs associated with the rulemaking process. Some bingo licensees may incur additional expense if they choose to purchase the verification equipment. As the use of equipment to verify winning bingo patterns is optional, no additional expense would occur to bingo licensees who do not purchase the verification equipment.

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Robert C. Lockwood, Tax Analyst
Address: Tax Research & Analysis Section
Arizona Department of Revenue
1600 West Monroe
Phoenix, AZ 85007
Telephone: (602) 542-4672
Fax: (602) 542-4680
E-mail: lockwoodr@revenue.state.az.us

10. The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

The Department has not scheduled any oral proceedings. Written comments on the proposed rules or preliminary economic, small business, and consumer impact statements may be submitted to the person listed above. Pursuant to A.R.S. § 41-1023(C), the Department will schedule oral proceedings if 1 or more individuals file written requests for oral proceedings within 30 days after the publication of this Notice.

A person may submit written comments regarding the proposed rules by submitting the comments no later than 5:00 p.m., February 5, 2001, to the person listed in questions 4 and 9.

11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

Not applicable

12. Incorporations by reference and their location in the rules:

None

13. The full text of the rules follows:

TITLE 15. REVENUE

**CHAPTER 7. DEPARTMENT OF REVENUE
BINGO SECTION**

ARTICLE 2. GENERAL PROVISIONS

R15-7-213. Verification of Winning Cards

ARTICLE 2. GENERAL PROVISIONS

R15-7-213. Verification of Winning Cards

- A. ~~At the time a bingo is called by any player, After a player has announced "bingo" during a bingo game, a bingo worker shall verify whether the player's card has a winning bingo pattern the numbers on the winning card in the presence of a disinterested player. Except as provided in subsections (A)(1) and (A)(2), The the bingo worker shall verify a call the numbers of the winning bingo pattern by announcing the numbers from the player's card. combination of all bingo patterns except the cover-all. For the cover-all pattern, the bingo worker may call all of the numbers not called during play of the game.~~

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1. If a licensee's bingo equipment is manufactured to automatically verify winning bingo patterns, a bingo worker shall verify a winning bingo pattern by announcing the card identification number.
 2. For the cover-all bingo pattern, the bingo worker may announce the numbers not called during the bingo game.
- B. ~~There shall be no more than one winning pattern verified per bingo card per game. A bingo worker shall verify only one winning bingo pattern on a card.~~

NOTICE OF PROPOSED RULEMAKING

TITLE 18. ENVIRONMENTAL QUALITY

**CHAPTER 13. DEPARTMENT OF ENVIRONMENTAL QUALITY
SOLID WASTE MANAGEMENT**

PREAMBLE

1. **Sections Affected**

R18-13-1201	Amend
R18-13-1202	Amend
R18-13-1205	Amend
R18-13-1209	Repeal
R18-13-1210	Amend
2. **The specific authority for the rulemaking, including both the authorizing statutes (general) and the statutes the rules are implementing (specific):**

Authorizing statutes: A.R.S. §§ 41-1003 and 49-104

Implementing statute: A.R.S. § 44-1304
3. **A list of all previous notices appearing in the Arizona Administrative Register:**

Notice of Rulemaking Docket Opening: 6 A.A.R. 4450, November 24, 2000
4. **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name:	Deborah K. Blacik or Martha L. Seaman, Rule Development
Address:	Arizona Department of Environmental Quality Rule Development Section, M0836A-829 3033 North Central Avenue Phoenix, AZ 85012
Telephone:	(602) 207-2223, (800) 234-5677, Ext. 2223 (Arizona only)
Fax:	(602) 207-2251
TTD Number:	(602) 207-4829
Name:	Barry Abbott, Program Supervisor
Address:	Arizona Department of Environmental Quality 3033 North Central Avenue Phoenix, AZ 85012
Telephone:	(602) 207-2226 or (800) 234-5677, Ext. 2226 (Arizona only)
Fax:	(602) 207-2383
5. **An explanation of the rule, including the agency's reasons for initiating the rule, including the statutory citation to the exemption from the regular rulemaking process:**

Overview

In this proposed rulemaking, the Arizona Department of Environmental Quality (Department) is amending various rules relating to waste tires. Most of these proposed amendments are necessitated by statutory changes.

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In general, R18-13-1201 through R18-13-1208 were made under the authority of A.R.S. § 44-1304. This statute prohibits the disposal of waste tires in landfills, unless the tires are first chopped or shredded. All waste tires must be recycled or reused. Mining industry tires are extremely heavy and are constructed with steel cables. Because of the weight, the tires are extremely costly to transport to a waste tire collection center or recycling facility. Because of the steel cables the tires cannot be readily recycled, chopped, or shredded. Therefore, the objective these rules is to provide the mines with a reasonable disposal option of tire burial on their properties.

R18-13-1209 and R18-13-1210 were first adopted as an emergency rulemaking. Their purpose was to provide a disposal option for tires and tire pieces remaining at the site of a tire fire. Tires and tire pieces remaining at a site of a tire fire are often covered with dirt and mud that render the tires useless for recycling purposes. These rules provide a disposal option that allows these residuals to be put to good use.

Analysis of Individual Rules Proposed for Amendment

R18-13-1201 lists definitions used in this Article. The rule is being proposed for amendment because the definition of “person” contains an outdated statutory paragraph reference. The rule is also being proposed for amendment to add the definition of “waste daily cover” previously contained in R18-13-1209.

R18-13-1202 provides for notification to the Department of the burial of off-road motor vehicle waste tires. The rule also provides where these burials may occur and by whom.

R18-13-1202(A) currently provides that the burial of tires method of disposal may only be done for a period of 5 years from the effective date of this Article. This rule is being proposed for amendment to delete this subsection because it contradicts the current A.R.S. § 44-1304(C). A.R.S. § 44-1304(C) now provides that “...Mining industry off-road motor vehicle waste tires may be disposed of by burial at a mining facility in the same manner permitted by rule in effect on February 1, 1996 until the Director by rule determines on-site recycling methods that are technically feasible and economically practical.” From this statutory language it is easy to conclude that the Legislature’s intent is that ADEQ retain this method of disposal until ADEQ determines that on-site recycling methods are technically feasible and economically practical. ADEQ has not made such a determination.

R18-13-1205 provides that the operator shall file a certification with the Department within 30 days after placement of final cover on a burial cell. This certification enables the Department to keep track of when burial cells are closed. The rule is being proposed for amendment to correct the internal cross-reference to R18-13-1203.

R18-13-1209 establishes the size of the pieces into which a tire must be chopped or shredded to be used as daily cover.

Since the making of R18-13-1209, A.R.S. § 44-1304 has been amended. The current A.R.S. § 44-1304(D)(4) no longer limits the source of the waste tires to former tire fire sites but allows waste tires from any source to be used as daily cover. Therefore, the R18-13-1209 definition of waste tire daily cover as those that have been removed from the site of a tire fire to abate a public or environmental nuisance is being proposed for amendment to conform with the statutory change. Also, the substance of this amended definition is being moved to the definitions Section R18-13-1201.

R18-13-1210 requires that the landfill operator use waste tires as daily cover according to plan approval requirements and also establishes a 2 consecutive day limit that waste tire daily cover can be used. R18-13-1210 provides a disposal option for tires and tire pieces at a solid waste landfill that allows these residuals to be put to good use. The rule is being proposed for amendment to strike an incorrect statutory reference.

6. Reference to any study that the agency proposes to rely on in its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study, and other supporting material.

None

7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not Applicable

8. The preliminary summary of the economic, small business and consumer impact:

A. Rule Identification

This rulemaking pertains to waste tires, solid waste management, under Chapter 13. It is codified in Title 18, Chapter 13, Article 12.

This summary represents the full document.

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B. Explanation of Impacts

Because this rulemaking removes an earlier time restriction (5 years) for the burial of mining industry off-road motor vehicles tires, adopted effective July 6, 1993, and it makes several technical amendments, ADEQ does not expect any direct impacts.

This rulemaking neither imposes additional compliance burdens upon any entity, nor increased regulatory requirements on ADEQ. As a result, this rulemaking is not expected to create any incremental impacts on political subdivisions, businesses, consumers, or general public. The only costs ADEQ is expected to incur are minimal rulemaking processing costs. Additionally, this rulemaking is not expected to have an impact on state revenues or private and public employment.

C. Small Business Impacts

Because ADEQ does not anticipate any impacts on small businesses or consumers, no analysis was necessary. Although costs and benefits are accruing under these rule provisions, none of them can be classified as incremental. Hence, the current ratio of benefits to costs are expected to continue under this rulemaking. Likewise, methods to reduce economic costs or to provide less intrusive compliance mechanisms on businesses are not applicable.

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement.

Name: David Lillie
Address: Arizona Department of Environmental Quality
3033 North Central M0836A, 844
Phoenix, AZ 85012-2809
Telephone: (602) 207-4436 or (800) 234-5677, Ext. 4436 (Arizona only)
TTD Number: (602) 207-4829
Fax: (602) 207-2251

10. The time, place and nature of the proceedings for the adoption, amendment, or repeal of the rule or, if no proceeding is scheduled, where, when and how persons may request an oral proceeding on the proposed rule:

Date: February 8, 2001
Time: 2:00 p.m.
Location: Arizona Department of Environmental Quality, Room 1710, 3033 N. Central, Phoenix, AZ 85012
(Please call (602) 207-4795 for special accommodations pursuant to the Americans with Disabilities Act.)
Nature: Public hearings on the proposed rules, with opportunity for formal comments on the record.
The close of written comment is at 5:00 p.m. on February 9, 2001.

11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules.

Not Applicable

12. Incorporations by reference and their location in the rules.

Not Applicable

13. The full text of the rules follows:

TITLE 18. ENVIRONMENTAL QUALITY

**CHAPTER 13 DEPARTMENT OF ENVIRONMENTAL QUALITY
SOLID WASTE MANAGEMENT**

ARTICLE 12. WASTE TIRES

R18-13-1201. Definitions
R18-13-1202. Burial of Mining Industry Off-road Motor Vehicle Waste Tires
R18-13-1205. Burial Cell Closure Certification
~~R18-13-1209. Definition Repealed~~

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R18-13-1210. Use of Waste Tire Daily Cover

ARTICLE 12. WASTE TIRES

R18-13-1201. Definitions

In addition to the definitions provided in A.R.S. § 44-1301, the following definitions apply in this Article:

1. "Aquifer protection permit" means an aquifer protection permit as provided for in A.R.S. § 49-241 et seq.
 2. "Burial cell" means an area of earthen materials where mining industry off-road motor vehicle waste tires are placed in or on the land for burial. A burial cell may consist of an entire overburden pile, waste rock pile, tailings impoundment, or leach area.
 3. "Mining" means activities dedicated to the exploration, extraction, beneficiation, and processing, including smelting and refining, of metallic ores.
 4. "Mining facility" means any land, building, installation, structure, equipment, device, conveyance, area, or source dedicated to mining.
 5. "Mining industry off-road motor vehicle waste tire" means an off-road waste tire which is greater than 3 feet in outside diameter which was used in mining.
 6. "Operator" means a person who owns all or part of a mining facility, or who leases, operates, or controls such facility, a person responsible for the overall operation of the mining facility, a management agency, or an authorized representative.
 7. "Person" means a person as defined by A.R.S. § ~~49-201(21)~~ 49-201.
- "Waste tire daily cover" means waste tires which have been chopped or shredded into pieces which do not exceed 4 inches in diameter.

R18-13-1202. Burial of Mining Industry Off-road Motor Vehicle Waste Tires

- ~~A.~~ For a period of not more than 5 years from the effective date of this Article, mining industry off-road motor vehicle waste tires may be disposed of by burial.
- ~~B.~~ A. No later than 24 hours after commencement of burial of any mining industry off-road motor vehicle waste tires, the operator of the mining facility shall file with the Director a one-time notice of commencement of burial of mining industry off-road motor vehicle waste tires and a map of the mining facility which clearly identifies the location and dimensions of the burial cell or cells and the estimated number of mining industry off-road motor vehicle waste tires which will be buried in each cell. Each burial cell shall be identified to the Department using an alphabetical or numeric identifier. If a new burial cell not previously included in the notice is utilized, the mine operator shall submit an additional notice to the Department within 24 hours after commencement of burial in that burial cell.
- ~~C.~~ B. Burial of mining industry off-road motor vehicle waste tires shall occur only in areas which are, or will be, included in the aquifer protection permit issued for the mining facility by the Department. Burial of mining industry off-road motor vehicle waste tires shall occur in leach areas only where an aquifer protection permit has been issued by the Department covering that leach area.
- ~~D.~~ C. A burial cell shall not be located within 10 feet of another burial cell.
- ~~E.~~ D. Mining industry off-road motor vehicle waste tires may be buried at the mining facility only if the tires are waste generated at that mining facility or another mining facility of the same owner.

R18-13-1205. Burial Cell Closure Certification

Within 30 days after placement of final cover ~~in accordance with under~~ R18-13-1203(B), the mining facility operator shall file with the Director a burial cell closure certification. The mining facility operator shall certify that no more tires will be buried in the burial cell. A ~~registered professional~~ engineer registered under A.R.S. Title 32, Chapter 1 shall certify that cover material has been placed ~~in accordance with under~~ the cover requirements of ~~R18-13-1205~~ R18-13-1203.

~~**R18-13-1209. Definition Repealed**~~

~~In addition to the definitions provided in A.R.S. § 44-1301, the following definition applies in this Article:~~

~~"Waste tire daily cover" means waste tires which have been removed from a site to abate a public or environmental nuisance, in accordance with A.R.S. Title 49, Chapter 1, Article 3, and which have been chopped or shredded into pieces which do not exceed 4 inches in diameter.~~

R18-13-1210. Use of Waste Tire Daily Cover

Waste tire daily cover may be used at a solid waste landfill ~~in accordance with~~ according to plan approval requirements ~~set forth pursuant to A.R.S. § 49-762~~. Waste tire daily cover shall not be used by a solid waste landfill as a daily cover for ~~not~~ more than 2 consecutive days at a time.

NOTICE OF PROPOSED RULEMAKING

TITLE 20. COMMERCE, BANKING, AND INSURANCE

CHAPTER 5. INDUSTRIAL COMMISSION OF ARIZONA

PREAMBLE

<u>1. Sections Affected</u>	<u>Rulemaking Action</u>
Article 1	Amend
R20-5-101	Amend
R20-5-102	Repeal
R20-5-102	New Section
R20-5-103	Repeal
R20-5-103	New Section
R20-5-104	Amend
R20-5-105	Repeal
R20-5-105	New Section
R20-5-106	Amend
R20-5-107	Amend
R20-5-108	Amend
R20-5-109	Amend
R20-5-110	Amend
R20-5-112	Amend
R20-5-113	Amend
R20-5-114	Amend
R20-5-115	Repeal
R20-5-115	New Section
R20-5-116	Amend
R20-5-117	Amend
R20-5-118	Amend
R20-5-119	Amend
R20-5-121	Amend
R20-5-123	Amend
R20-5-124	Amend
R20-5-125	Amend
R20-5-126	Amend
R20-5-127	Amend
R20-5-128	Repeal
R20-5-128	New Section
R20-5-129	Amend
R20-5-130	Amend
R20-5-131	Amend
R20-5-133	Amend
R20-5-134	Amend
R20-5-136	Amend
R20-5-137	Amend
R20-5-138	Amend
R20-5-139	Amend
R20-5-140	Amend
R20-5-141	Amend
R20-5-142	Amend
R20-5-143	Amend
R20-5-144	Amend
R20-5-145	Amend
R20-5-146	Repeal
R20-5-147	Amend
R20-5-148	Amend

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R20-5-149	Amend
R20-5-150	Amend
R20-5-151	Amend
R20-5-152	Amend
R20-5-153	Amend
R20-5-154	Amend
R20-5-155	Amend
R20-5-156	Amend
R20-5-157	Amend
R20-5-158	Amend
R20-5-159	Amend
R20-5-160	Amend
R20-5-162	Amend
R20-5-163	Amend
R20-5-164	Amend

2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

Authorizing statute: A.R.S. § 23-107(A)(1)

Implementing statutes: A.R.S. §§ 23-908(A) and (B); 23-921(B); 23-961(F); and 23-1043.03(F)

3. A list of all previous notices appearing in the Register addressing the proposed rules:

Notice of Rulemaking Docket Opening: 2 A.A.R. 1107, March 1, 1996

Notice of Formal Rulemaking Advisory Committee: 2 A.A.R. 1109, March 1, 1996

Notice of Rulemaking Docket Opening: 7 A.A.R. 71, January 5, 2001

4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: Laura L. McGrory
Assistant Chief Counsel

Address: Industrial Commission of Arizona
Legal Division
800 West Washington St., Suite 303
Phoenix Arizona 85007

Telephone: (602) 542-5781

Fax: (602) 542-6783

5. An explanation of the rule, including the agency's reason for initiating the rule:

The Industrial Commission, in cooperation with the Workers' Compensation Rules Advisory Committee, initiated rulemaking to update the language of Article 1 and to improve the clarity of the rules. In response to concerns and comments received from the workers' compensation community, amendments are also proposed that encourage informal resolution of discovery disputes, clarify the right and scope of inspection of commission claims files, and address parties' rights and obligations related to payment of disability benefits, issuance of notices, discovery, scheduling of medical examinations, exchange of medical reports and other rules of procedure governing practice before the Industrial Commission in a workers' compensation hearing. The proposed amendments also address the nature and scope of medical record requests, including the fee that may be charged by health care providers for the reproduction of the requested records. The proposed amendments also include approval and practice requirements for workers' compensation insurance carriers that maintain claims offices outside Arizona. The proposed amendments also implement the requirements under A.R.S. § 23-1043.01 pertaining to hepatitis C.

6. A reference to any study that the agency proposes to rely on in its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, and analysis of the study and other supporting material:

None

7. A showing of good cause why the rule is necessary to promote statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

The proposed amendments do not diminish a previous grant of authority of a political subdivision of this state.

8. The preliminary summary of the economic, small business, and consumer impact statement:

The proposed amendments concern primarily rules of procedure governing workers' compensation claims before the Industrial Commission. Individuals using the rules will benefit from the rules to the extent that the proposed amendments are intended to make the rules easier to read and understand. The Industrial Commission does not anticipate or foresee any measurable negative economic impact on small businesses or consumers as a result of amendments to this Article, except for changes proposed in R20-5-113, R20-5-128, R20-5-130, and R20-5-164 that are more fully described below. Other than costs associated with printing the rules in a booklet for distribution to the public, the Industrial Commission does not anticipate that the proposed rule changes will have any measurable negative economic impact on this Agency.

Changes are proposed to R20-5-113 that permit a workers' compensation insurance carrier to refuse payment to a physician for services rendered if the physician fails to submit the report required by this Section. If a physician complies with the requirements of this R20-5-113, there is no economic impact and the physician will receive payment for services rendered. However, if a physician fails to comply with the requirements of R20-5-113, a carrier, self-insured employer, or Special fund division may delay payment for services until the physician submits the required report. Timely submission of a medical report by a physician facilitates timely payment of disability benefits to an injured worker and promotes efficient claims processing by an insurance carrier, self-insured employer, or Special fund division. In this regard, the benefits of the rule outweigh the impact that the proposed change may have upon physicians who fail to timely provide the required medical reports.

Changes are proposed to R20-5-128 that limit the charge that physicians, physical therapists, and occupational therapists ("health care providers") can bill for copying medical records to \$.25 a page and \$10 dollars an hour for associated clerical costs. Some health care providers charge more than the charges set forth R20-5-128. Some providers charge less. The Industrial Commission believes that some health care providers will decline to make multiple copies of records for the reason that the charges proposed do not adequately compensate the health care provider for the providers time and expense in making the records. Other providers may have to change their current practice to reduce the overhead involved in the copying of records. The Commission believes that R20-5-128 does not impose an unfair burden on the health care providers as the cost limitation set forth in this Section is consistent with generally accepted copying charges. Further, by limiting the charges to generally accepted copying charges, parties to Industrial Commission proceedings have increased access to records that the law entitles them to receive. The Industrial Commission further believes that increasing access to medical records required for the discovery and litigation process constitutes a benefit that outweighs any impact experienced by those health care providers who currently charge more than \$.25 per page and \$10 per hour in associated clerical costs for the reproduction of medical records.

Changes are proposed to R20-5-130 that permit a worker's compensation insurance carrier to maintain a claims office outside Arizona if the office is authorized by the Industrial Commission and the carrier maintains a toll free telephone line to the carrier's out-of-state claims office. The Commission believes that the majority of carriers currently maintaining an out-of-state claims office already have at least one toll free telephone line available to injured workers and client employers. For those carriers who would have to establish a toll free telephone line in order to obtain Industrial Commission authorization to maintain an out-of-state claims office, the Industrial Commission believes that the costs associated with setting up a toll free telephone number are outweighed by the advantage of having such a number. A toll free telephone number increases access of injured workers and client employers to the carrier by eliminating long distance telephone charges. Injured workers and their representatives benefit from increased access to the insurance carrier. Client employers and potential client employers benefit from increased access to the insurance carrier.

R20-5-164 conforms the requirements of this Section to the requirements of 29 CFR 1910.1030 by requiring an employer to pay for the testing required by A.R.S. § 23-1043.02. R20-5-164 imposes no additional burden on employers, but clarifies the obligation of employers.

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name:	Laura L. McGrory Assistant Chief Counsel
Address:	Industrial Commission of Arizona Legal Division 800 West Washington St., Suite 303 Phoenix Arizona 85007
Telephone:	(602) 542-5781
Fax:	(602) 542-6783

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10. The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

Date: February 15, 2001

Time: 1:30 p.m.

Location: Industrial Commission of Arizona, 1st Floor Auditorium 800 West Washington St., Phoenix, Arizona 85007

Nature: Oral and written comments will be accepted on or before the date set forth in this paragraph.

11. Any other matters prescribed by statute that are applicable to the specific rule or class of rules:

None

12. Incorporation by reference and their location in the rules:

United States Abridged Life Tables, 1996, National Vital Statistics Reports, Vol. 47, Number 13. Incorporated by reference in R20-5-121(B).

13. The full text of the rules follows:

TITLE 20. COMMERCE, BANKING, AND INSURANCE

CHAPTER 5. THE INDUSTRIAL COMMISSION OF ARIZONA

ARTICLE 1. WORKER'S COMPENSATION PRACTICE AND PROCEDURE ~~RULES OF PROCEDURE FOR WORKER'S COMPENSATION HEARINGS BEFORE THE INDUSTRIAL COMMISSION OF ARIZONA~~

- R20-5-101. Notice of Rules; Part of Record; Effective Date
~~R20-5-102. Location of Office and Office Hours Repealed~~
R20-5-102. Definitions
~~R20-5-103. Time for Filing; Computation; Responses to Motions Repealed~~
R20-5-103. Location of Industrial Commission Offices and Office Hours
R20-5-104. Address of Claimant and Uninsured Employer
~~R20-5-105. Definitions Repealed~~
R20-5-105. Filing Requirements; Time for Filing; Computation of Time; Response to Motion
R20-5-106. Forms Prescribed by the Commission
R20-5-107. Manner of Completion of Forms and Documents
R20-5-108. Confidentiality of a Commission Claims File; Reproduction and Inspection of a Commission Claims File

R20-5-109. Admission into Evidence of Documents Contained in a Commission Claims File ~~Microfilmed Files~~
R20-5-110. Employer Duty to Report Fatality ~~Employer's Report; Report of Fatality~~
R20-5-112. Physician's Initial Report of Injury
R20-5-113. Physician's Duty to Provide Signed Subsequent Medical Reports; Rating of Impairment of Function; Restriction Against Interruption or Suspension of Benefits; Change of Physician; Employee's Obligation to Follow Treatment; Rating of Impairment of Function

R20-4-114. Examination at Request of Commission, Carrier or Employer; Motion for Relief
~~R20-5-115. Requests for Out of State Medical Treatment Repealed~~
R20-5-115. Request to Leave the State
R20-5-116. Payment of Claimant's Travel Transportation and Living Expenses of Employee When Directed to Report for Medical Examination or Treatment

R20-5-117. Medical, Surgical, Hospital, and Burial Expenses
R20-5-118. Effective Date of Notices ~~Notice of Claim Status and Other Determinations; Attachments to Notices of Claim Status; Form of Notices of Claim Status~~

R20-5-119. Notice of 3rd Third Party Settlement
R20-5-121. Present Value and; Basis of Calculation of Lump Sum Commutation Award
R20-5-123. Rejection of the Act ~~Workers' Compensation Law~~
R20-5-124. Rejection Not Applicable to New Employment
R20-5-125. Rejection Before an Employer Complies with A.R.S. §§ 23-961(A) and 23-960(D) ~~Prior to Employers Securing Insurance~~
R20-5-126. Revocation of Rejection
R20-5-127. Insurance Carrier ~~Carrier's~~ Notification to Commission of Coverage

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- R20-5-128. ~~Employer's Notification to Commission of Coverage Repealed~~
R20-5-128. Medical Information Reproduction Cost Limitation; Definition of Medical Information
R20-5-129. ~~Carrier~~ Carrier's or Workers' Compensation Pool Determinations Binding upon its Insured ~~or Members~~;
Self-Rater Exception
R20-5-130. ~~Arizona~~ Claims Office Location and Function; Requirements of Maintaining an Out-of-State Claims Office;
R20-5-131. Maintenance of Carrier and Self-insured Employer Claims Files ~~File~~; Contents; Inspection and Copying;
Exchange of Medical Reports; Authorization to Obtain Medical Records
R20-5-133. Claimant's Employee's Petition to Reopen for Reopening of Claim
R20-5-134. Petition For Rearrangement or Readjustment of Compensation Based Upon Increase or Reduction of Earn-
ing Capacity
R20-5-136. Time Within Which Requests ~~within which requests for~~ Hearing Shall ~~hearing shall be~~ Filed ~~filed~~
R20-5-137. Service of a Request ~~Requests for Hearing~~ Timely Filed
R20-5-138. Hearing Calendar and Assignment to Administrative Law Judges ~~Judges~~; Notification of Hearing
R20-5-139. Administrative Resolution of Issues by Stipulation Before Filing a Request for Hearing
R20-5-140. Informal Conferences
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R20-5-142. In-State ~~Witnesses'~~ Oral Depositions; In-State
R20-5-143. Out-of State ~~Witnesses'~~ Oral Depositions; Out-of-State
R20-5-144. Parties' Written Interrogatories
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R20-5-146. Use of Depositions of Answers to Interrogatories Repealed
R20-5-147. Applicability; Videotape Recordings and Motion Pictures
R20-5-148. Burden of Presentation of Evidence; Offer ~~Offers~~ of Proof
R20-5-149. Presence of Applicant at Hearing; Notice of a Parties' Non-Appearance at Hearing; Assessment of Hearing
Costs for Non-Appearance
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R20-5-152. Resolution of Issues by Stipulation After the Filing of a Request for Hearing ~~Stipulations~~; Notice of Resolu-
tion; Assessment of Hearing Costs
R20-5-153. Exclusion of Witnesses
R20-5-154. Correspondence to Administrative Law Judge
R20-5-155. Filing of Medical Reports and Non-Medical Reports Into Evidence; Request for Subpoena ~~Right to Cross-
examine~~ Author of Report Submitted into Evidence; Failure to Timely Request Subpoena for Author
R20-5-156. Continuance of Hearing
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R20-5-158. Service of Awards and Other Matters
R20-5-159. Record for Award or Decision on Review
R20-5-160. Application ~~Petitions~~ to Set Attorney Fees Under A.R.S. § 23-1069
R20-5-162. Legal Division ~~department~~ Participation
R20-5-163. Bad Faith and Unfair Claim Processing Practices
R20-5-164. Human Immunodeficiency Virus and Hepatitis C Significant Exposure; Employee Notification; Reporting;
Documentation; Forms

**ARTICLE 1. WORKER'S COMPENSATION PRACTICE AND PROCEDURE ~~RULES OF PROCEDURE FOR
WORKER'S COMPENSATION HEARINGS BEFORE THE INDUSTRIAL COMMISSION OF ARIZONA~~**

R20-5-101. Notice of Rules; Part of Record; Effective Date

- A.** This Article applies ~~These rules apply~~ to all actions and proceedings before the commission ~~Commission~~ ~~pertaining to~~
~~claims~~ resulting from:
1. Injuries ~~injuries that which~~ occurred on or after January 1, 1969; and to
2. Petitions to Reopen or Petitions for Readjustment or Rearrangement of Compensation filed on or after that date.
B. The commission shall:
1. Deem this Article ~~and shall be deemed~~ a part of the record in each ~~such~~ action or proceeding without formal introduc-
tion of or reference to this Article, ~~the same~~.
2. Deem all ~~All~~ parties ~~are deemed~~ to have knowledge of this Article, ~~and these rules~~.
3. Provide a copy of this Article ~~the rules will be supplied~~ upon request to any person free of charge ~~by the Commission~~.
C. This Article is effective as provided in A.R.S. § 41-1031. ~~These rules shall become effective March 1, 1987, and apply to
all hearings held thereafter.~~

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R20-5-102. Location of Office and Office Hours Repealed

The main office of The Industrial Commission of Arizona is located in Phoenix, Arizona. An office is also located in Tucson, Arizona. The offices are open for the transaction of business from 8:00 a.m. until 5:00 p.m. every day except Saturdays, Sundays, and legal holidays.

R20-5-102. Definitions

In this Article, unless the context otherwise requires:

“Act” means the Arizona Workers’ Compensation Act, Arizona Revised Statutes, Title 23, Chapter 6, Articles 1 through 11.

“Authorized representative” means an individual authorized by law to act on behalf of a party who has filed with the commission a written instrument advising of their authority to act on behalf of the party.

“Carrier” or “insurance carrier” means the state compensation fund and every insurance carrier authorized by the Arizona Department of Insurance to underwrite workers’ compensation insurance in Arizona.

“Claimant” means an employee who has filed a claim for workers’ compensation.

“Filing” means actual receipt of a report, document, instrument, videotape, audiotape, or other matter at a commission office during office hours as set forth in R20-5-103.

“Physician” means a licensed physician or other licensed practitioner of the healing arts.

“Self-insured employer” means an employer or workers’ compensation pool granted authority by the commission to self-insure for workers’ compensation.

“Uninsured employer” or “noncomplying employer” means an employer that is subject to and fails to comply with A.R.S. §§ 23-961 or 23-962.

“Working days” means all days except Saturdays, Sundays, and state legal holidays.

R20-5-103. Time for Filing; Computation; Responses to Motions Repealed

- A.** ~~All pleadings, reports, documents, instruments and other written matters shall be filed with the Commission within the time required by law and these rules. The day of the act or event after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday or a holiday. Where a matter is required to be filed within a designated period of time prior to a hearing, the day of the act or event from which the designated period of time begins to run is not included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday, or a legal holiday, in which event the period runs to the next earlier day which is not a Saturday, Sunday or a holiday. When the period of time prescribed is less than 11 days, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation. Matters filed at any office of the Commission shall be considered as filed at the main office for purposes of computation of time.~~
- B.** ~~Any party or any party sought to be joined may respond to any motion filed pursuant to these rules by filing a response to the motion within 10 days after the motion is filed.~~

R20-5-103. Location of Industrial Commission Offices and Office Hours

The main office of the Industrial Commission of Arizona is located in Phoenix, Arizona. An office is also located in Tucson, Arizona. The offices are open for business from 8:00 a.m. until 5:00 p.m. every day except Saturdays, Sundays, and state legal holidays.

R20-5-104. Address of Claimant and Uninsured Employer

- A.** ~~It shall be the duty and obligation of a claimant shall advise to keep the The Industrial commission Commission of Arizona and carrier or self-insured employer advised of the claimant’s current his address and place of residence. If a claimant files a workers’ compensation claim against an uninsured employer, then the claimant shall advise the special fund division of the claimant’s current address and place of residence.~~
- B.** ~~An uninsured employer against whom a workers’ compensation claim is filed shall advise the special fund division of the uninsured employer’s current address and place(s) of residence.~~
- C.** ~~The address of a the claimant’s or uninsured employer’s his attorney or authorized representative is shall not be sufficient to meet the requirements of this Section rule.~~

R20-5-105. Definitions Repealed

In these Rules of Procedure, unless the context otherwise requires, the following words and terms shall have the following meanings:

1. ~~“Authorized representative” means only those persons authorized by law, including attorneys, to appear before the Commission who have filed with the Commission a written instrument advising of their authority to act on behalf of a party.~~

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2. ~~"Insurance carrier" or "carrier" applies to and means the State Compensation Fund and every insurance carrier duly authorized by the Director of Insurance to underwrite workers' compensation or occupational disease compensation insurance in the state of Arizona. It also applies to employers who have been granted authority to act as self-insurers by the Commission.~~
3. ~~"Filing" means actual receipt of the document, instrument or matter at the offices of the Commission during its regular hours of business on a day it is open for the transaction of business.~~
4. ~~"Physician" means any licensed physician or other licensed practitioner of the healing arts.~~
5. ~~"Working days" means all days except Saturdays, Sundays and state legal holidays.~~

R20-5-105. Filing Requirements; Time for Filing; Computation of Time; Response to Motion

- A.** A report, document, instrument, videotape, audiotape, or other written matter required to be filed with the commission under A.R.S. § 23-901 et seq. and this Article shall be filed at a commission office within the time required by law and this Article.
- B.** For purposes of computing time under this Article, the following applies:
 1. The commission shall not include in the computation of time the day of the act or event after which the designated period begins to run.
 2. The commission shall include in the computation of time the last day of the designated period, unless the last day is a Saturday, Sunday, or state legal holiday, in which event the period runs until the end of the next day that is not a Saturday, Sunday, or state legal holiday.
 3. If this Article or other law requires that a report, document, instrument, videotape, audiotape, or other written matter be filed within a designated period of time before hearing, the commission shall not include the day of the act or event from which the designated period of time begins to run. The commission shall include the last day of the designated period unless that day is a Saturday, Sunday, or state legal holiday, in which event the period runs to the end of the next day that is not a Saturday, Sunday, or state legal holiday.
 4. If the period of time prescribed is less than 11 days, the commission shall not include intermediate Saturdays, Sundays, or state legal holidays in the computation of time.
- C.** The commission shall deem a report, document, instrument, videotape, audiotape, or other written matter filed at a commission office as filed at the main office for purposes of computing time.
- D.** A person upon whom a motion to join is filed under this Article may file a response to the motion within 10 days after the motion is filed.
- E.** The commission shall not consider a discovery motion unless a separate statement is attached to the discovery motion certifying that after good faith efforts to do so, the moving party has been unable to satisfactorily resolve the matter giving rise to the discovery motion.

R20-5-106. Forms Prescribed by the Commission

- A.** In addition to forms required under the Act to be prescribed by the commission, the commission shall have the authority to prescribe other forms that the commission deems are necessary or useful. ~~The Commission shall prescribe and provide forms required by the provisions of the Workers' Compensation Law and by this Article. The prescribed forms are available from the Commission upon request.~~
- B.** Use of the following forms is required:
 1. Employer's report of industrial injury (form 101) shall contain:
 - a. Employee, employer, and carrier identification;
 - b. Employment description;
 - c. Accident and injury descriptions;
 - d. Medical treatment information;
 - e. Wage data;
 - f. Date, signature, and title of employer or the employer's representative; and
 - g. Statement doubting the validity of the claim, if the validity of the claim is doubted.
 2. The physician's portion of the worker's and physician's report of injury (form 102) shall contain:
 - a. Name and address of physician;
 - b. Information regarding preexisting conditions;
 - c. Information regarding the industrial injury, treatment, and prognosis;
 - d. Statement authorizing the attachment of a medical report that contains the information required in form 102; and
 - e. Physician's signature and date.
 3. Notice of supportive medical benefits (form 103) shall contain:
 - a. Employee, employer, insurance carrier, and claim identification;
 - b. Description of authorized medical benefits;
 - c. Date the notice is mailed;
 - d. Name and telephone number of the individual issuing the notice; and

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- e. Statement regarding reopening and appeal rights including filing requirements.
4. Notice of claim status (form 104) shall contain:
 - a. Employee, employer, insurance carrier, and claim identification;
 - b. Information regarding the status of the claim;
 - c. Date the notice is mailed;
 - d. Name and telephone number of the individual issuing the notice; and
 - e. Statement regarding hearing and appeal rights including filing requirements.
5. Notice of suspension of benefits (form 105) shall contain:
 - a. Employee, employer, insurance carrier, and claim identification;
 - b. Effective date of the suspension;
 - c. Reasons for the suspension;
 - d. Date the notice is mailed;
 - e. Name and telephone number of the individual issuing the notice; and
 - f. Statement regarding hearing and appeal rights with time designations as provided by law.
6. Notice of permanent disability or death benefits (form 106) shall contain:
 - a. Employee, employer, insurance carrier, and claim identification;
 - b. Applicable statutory authority;
 - c. Disability and compensation information;
 - d. Date the notice is mailed;
 - e. Name and telephone number of the individual issuing the notice; and
 - f. Statement regarding hearing and appeal rights including filing requirements.
7. Notice of permanent disability and request for determination of benefits (form 107) shall contain:
 - a. Employee, employer, insurance carrier, and claim identification;
 - b. Type of disability;
 - c. Applicable statutory authority;
 - d. Dependent information where death is involved;
 - e. Advanced payments and the basis for the advance;
 - f. Date the notice is mailed; and
 - g. Name and telephone number of the individual issuing the notice.
8. Carrier's recommended average monthly wage calculation (form 108) shall contain:
 - a. Employee, employer, insurance carrier, and claim identification;
 - b. Employment and wage history;
 - c. Dependents' information; and
 - d. Carrier's calculations for the recommended average monthly wage and the basis for the calculation.
9. Notice of permanent compensation payment plan (form 111) shall contain:
 - a. Employee, employer, and carrier identification;
 - b. Amount of permanent compensation and description of payment plan;
 - c. Name of the responsible entity contracted by the carrier to administer the payment plan;
 - d. Statement that the carrier remains the responsible party for payment;
 - e. Statement regarding supportive care and reopening rights;
 - f. Date the notice is mailed; and
 - g. Name and telephone number of the individual issuing the notice.
10. Report of insurance coverage (form 0006) shall contain:
 - a. Name and address of the carrier;
 - b. Legal name of entity that the carrier is insuring;
 - c. All other insured names or subsidiary entities under which the carrier's insured is doing business in Arizona;
 - d. Address of all insured entities with insurance policy information for each address; and
 - e. Employer Identification Number (EIN), Taxpayer Identification Number (TIN), or Federal Identification Number (FIN) assigned to each insured person or entity.
11. Report of significant work exposure to bodily fluids shall contain:
 - a. Requirements set forth in A.R.S. § 23-1043.02(B) and § 23-1043.03(B).
 - b. Employee identification;
 - c. Employer identification;
 - d. Details of the exposure including:
 - i. Date of exposure.
 - ii. Time of exposure.
 - iii. Place of exposure.
 - iv. How exposure occurred.

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- v. Type of bodily fluid(s).
 - vi. Source of bodily fluid(s).
 - vii. Part(s) of body exposed to bodily fluid(s).
 - viii. Presence of break or rupture in skin or mucous membrane, and
 - ix. Witnesses (if known); and
 - e. Dated signature of employee or the employee's authorized representative.
- C. Use of the following forms is requested:**
- 1. The workers' portion of the worker's and physician's report of injury (form 102) requests:
 - a. Employee, employer, insurance carrier, and physician identification;
 - b. Description of the accident, including date of injury; and
 - c. Date and signature of the employee or the employee's authorized representative.
 - 2. Worker's report of injury (form 407) requests:
 - a. Employee and employer identification.
 - b. Job title.
 - c. Employment description.
 - d. Wage data.
 - e. Date of injury.
 - f. Accident and injury descriptions.
 - g. Medical treatment information.
 - h. Prior injury information.
 - i. Disability income, and
 - j. Date and signature of the employee or the employee's authorized representative.
 - 3. Worker's annual report of income (form 110-A) requests:
 - a. Employee, employer, insurance carrier, and claim identification;
 - b. Employment and wage history for the preceding 12 months;
 - c. Date and signature of the employee or the employee's authorized representative attesting to the truthfulness of the employment and wage information; and
 - d. Statement that failure to submit an annual report of income may result in a suspension of benefits by the carrier or self-insured employer.
 - 4. Notice of intent to suspend (form 110-B) requests:
 - a. Employee, employer, insurance carrier, and claim identification;
 - b. Employment and wage history for the preceding 12 months;
 - c. Date and signature of the employee or the employee's authorized representative attesting to the truthfulness of the employment and wage information;
 - d. Statement that failure to submit an annual report within 30 days of the date of the notice shall result in a suspension of benefits by the carrier or self-insured employer.
 - 5. Request for hearing requests:
 - a. Employee, employer, and insurance carrier identification;
 - b. Identification of the award, notice, order, or determination protested and reason(s) for the protest;
 - c. Estimated length of time for hearing and city or town in which hearing is requested;
 - d. Name and address of any witness for whom a subpoena is requested; and
 - e. Date and signature of party or the party's authorized representative.
 - 6. Petition to reopen requests:
 - a. Names of the employee, employer, and insurance carrier;
 - b. Claim identification;
 - c. Identification or description of the new, additional, or previously undiscovered temporary or permanent disability or medical condition justifying the reopening of the claim; and
 - d. Employee's medical and employment history.
 - 7. Petition for rearrangement or readjustment of compensation requests:
 - a. Names of the employee, employer, insurance carrier;
 - b. Claim identification;
 - c. Income and employment history;
 - d. Medical history; and
 - e. Statement of the basis for the increase or decrease in earning capacity.
 - 8. Claim for dependent's benefits-fatality form requests:
 - a. Identification of dependent filing claim;
 - b. Identification of deceased;
 - c. Date of death;
 - d. Date of injury, if different than date of death;

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- e. Name and address of employer at time of deceased's death;
- f. Statement of cause of death;
- g. Names and addresses of healthcare providers rendering treatment to deceased in the last 2 years;
- h. Conditions treated by healthcare providers in the last 2 years;
- i. If claim is for spousal benefits, the form requests:
 - i. Name, address, and date of birth of spouse;
 - ii. Copy of marriage certificate;
 - iii. Date and place of marriage to deceased;
 - iv. History of prior marriages of deceased or deceased's spouse, including copies of divorce decrees; and
 - v. Statement of living arrangements at time of deceased's death, including reason for living apart at time of death, if applicable;
- j. If claim is for dependent children, the form requests:
 - i. Name, date of birth, and address at time of death of dependent children;
 - ii. List of children in care and custody of current spouse; and
 - iii. Statement of whether unborn child is expected and date expected;
- k. If claim is for dependent other than children, the form requests:
 - i. Name and address of other dependent,
 - ii. Relationship of other dependent to deceased, and
 - iii. Statement of the nature and extent of dependency; and
- l. Date, telephone number, and signature of dependent or authorized representative of dependent.
- 9. Request to leave the state requests:
 - a. Employee, insurance carrier, and claim identification;
 - b. Reason for requesting to leave Arizona;
 - c. Dates leaving and returning to Arizona;
 - d. Out-of state address;
 - e. Name and telephone of attending physician; and
 - f. Date and signature of the employee or the employee's authorized representative.
- 10. Request to change doctors requests:
 - a. Employee, insurance carrier, and claim identification;
 - b. Reason for requesting change of doctor;
 - c. Name and phone number of doctor changing from;
 - d. Name and phone number of doctor changing to; and
 - e. Date and signature of the employee or the employee's authorized representative.
- 11. Complaint of bad faith and unfair claim processing practices requests:
 - a. Employee, employer, and insurance carrier identification;
 - b. Description of the alleged bad faith or unfair claim processing practices;
 - c. Date of the complaint; and
 - d. Name, address, and telephone number of the person signing the complaint.
- 12. Certification of employer's drug and alcohol testing policy requests:
 - a. Employer's certification as described under A.R.S. § 23-1021 (F);
 - b. Name and federal identification number of the employer; and
 - c. Name of all subsidiaries and locations of the employer.
- D.** Optional use of a form described in subsection (C) is not intended to and shall not affect any requirement under the Act or this Article.
- E.** Forms or format for the forms described in this Section are available from the commission.
- F.** Forms prescribed under this Section shall not be changed, amended, or otherwise altered without the prior written approval of the commission.

R20-5-107. Manner of Completion of Forms and Documents

- A.** An individual completing a form or document shall ensure that the form or document is Prescribed forms must be filled out legibly, either in ink or by typewriter.
- B.** A party or a party's authorized representative shall sign any form or document that is All reports or instruments required by the Act, this Article, or other law to be signed, shall be signed by the party or by the party's authorized representative, and
- C.** If a party is required to sign a form or document, the commission shall not accept a typewritten name or stamped signature, signatures will not be accepted.

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- D.** ~~If, within the time period prescribed by law, a party files~~ Filing of an incomplete form or document, or files an instrument other than a form or document when a form or document is required, the commission shall serve notice to the party that the form or document fails to comply with this Section, within the prescribed time period. The commission shall deem the report or document timely filed will constitute a timely filing if the party files ~~complies with these rules by filing a properly completed and signed executed form or document within 14 days after the commission serves the notice described in this subsection, of the date notice was given by the Commission that the form was incomplete.~~

R20-5-108. Confidentiality of a Commission Claims File; Reproduction and Inspection of a Commission Claims File

- A.** ~~Except as provided in this Section, a~~ The claims file files maintained by the commission is and all matters contained therein shall be considered private and confidential and is not available for inspection and copying. For purposes of this Section, "claims file" means the official record maintained by the commission for a claimant's industrial injury including all reports, records, instruments, videotapes, audiotapes, transcripts, and other matters scanned or otherwise placed into the file. The claims file includes a worker's report of injury, employer's report of injury, and worker and physician's report of injury, and shall be available for inspection and copying only by an interested party to a proceeding before the Commission or the party's duly authorized representative.
- B.** ~~Except as provided in subsections (D) and (E), a commission claims file~~ Claims files of the Commission relating to a present or prior claim claims of a claimant an employee shall be available for inspection and copying by any party to any proceeding presently or previously before the commission Commission involving the same claimant employee.
- C.** ~~Except as provided in subsections (D) and (E), a commission claims file is~~ The Commission's claims files shall be available to a non-party for copying and inspection and copying only by pursuant to a court order or written authorization signed by the affected claimant or the affected claimant's authorized representative, or subpoena.
- D.** The commission shall make a transcript contained in a commission claims file available for inspection and copying if:
1. The person requesting to inspect and copy the transcript is a party or person authorized under subsection (C);
 2. The transcript concerns a hearing related to a case that the commission deems final and concluded. Orders and awards of the Commission or an administrative law judge are matters of public record.
- E.** The commission shall make a transcript contained in a commission claims file available only for inspection if:
1. The person requesting to inspect and copy the transcript is a party or person authorized under subsection (C);
 2. The transcript concerns a hearing related to a case in litigation.
- ~~**F.** The commission shall provide copies. Copies may be furnished upon request at a charge of \$.25 per page. Copies of transcripts of hearings will not be reproduced, but will be available for inspection.~~
- ~~**G.** A commission file~~ The files of the Commission shall not be removed taken from a commission the office of the Commission unless in the custody of an authorized representative of the commission Commission.
- ~~**G.** The worker's report of injury requests the following:~~
- ~~1. Employee and employer identification;~~
 - ~~2. Job Title;~~
 - ~~3. Employment description;~~
 - ~~4. Wage data;~~
 - ~~5. Date of injury;~~
 - ~~6. Accident and injury descriptions;~~
 - ~~7. Medical treatment information;~~
 - ~~8. Prior injury information;~~
 - ~~9. Disability income;~~
 - ~~10. Date and signature of the employee or the employee's authorized representative.~~
- H.** The employer's report of industrial injury requests the following:
1. Employee, employer, and carrier identification;
 2. Employment description;
 3. Industrial accident description;
 4. Injury description;
 5. Medical treatment information;
 6. Employee's wage data;
 7. Name and title of employer or the employer's representative with date of report;
 8. If the validity of the claim is doubted, a statement shall be included setting forth the basis thereof.
- I.** The carrier's recommended average monthly wage calculation shall contain the following:
1. Employee, employer, insurance carrier and claim identification;
 2. Employment and wage history;
 3. Dependents information;
 4. Carrier's calculations concerning the recommended average monthly wage and the basis thereof.
- J.** The notice of supportive medical benefits form shall contain the following:

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1. Employee, employer, insurance carrier and claim identification;
 2. Description of authorized medical benefits;
 3. Date the notice is mailed;
 4. Name and telephone number of the issuing party;
 5. Statement regarding reopening and appeal rights with time designations as provided by law.
- K.** The worker's annual report of income requests the following:
1. Employee, employer, insurance carrier and claim identification;
 2. Employment and wage history for the preceding 12 months;
 3. Date and signature of the employee or the employer's authorized representative attesting to the truthfulness of the employment and wage information;
 4. A statement that failure to submit an annual report of income may result in a suspension of benefits.
- L.** The notice of intent to suspend requests the following:
1. Employee, employer, insurance carrier and claim identification;
 2. Employment and wage history for the preceding 12 months;
 3. Date and signature of the employee or the employee's authorized representative attesting to the truthfulness of the employment and wage information;
 4. A statement that failure to submit an annual report within 30 days of the date of the notice shall result in a suspension of benefits.
- M.** The notice of suspension of benefits shall contain the following:
1. Employee, employer, insurance carrier and claim identification;
 2. Effective date of the suspension;
 3. Reasons for the suspension;
 4. Date the notice is mailed;
 5. Name and telephone number of the issuing party;
 6. Statement regarding hearing and appeal rights with time designations as provided by law.
- N.** The notice of permanent disability or death benefits shall contain the following:
1. Employee, employer, insurance carrier and claim identification;
 2. Applicable statutory authority;
 3. Disability and compensation information;
 4. Date the notice is mailed;
 5. Name and telephone number of the issuing party;
 6. Statement regarding hearing and appeal rights with time designations as provided by law.
- O.** The notice of permanent disability and request for determination of benefits shall contain the following:
1. Employee, employer, insurance carrier and claim identification;
 2. Type of disability;
 3. Applicable statutory authority;
 4. Dependent information where death is involved;
 5. Advanced payments and the basis thereof;
 6. Date the notice is mailed;
 7. Name and telephone number of the issuing party.
- P.** The notice of permanent compensation payment plan shall contain the following:
1. Employee, employer and carrier identification;
 2. Amount of permanent compensation and description of payment plan;
 3. Name of the responsible entity contracted by the insurance carrier to administer the payment plan;
 4. Statement that the carrier remains the responsible party for payment;
 5. Statement regarding supportive care and reopening rights;
 6. Date the notice is mailed;
 7. Name and telephone number of the issuing party.

R20-5-109. Admission into Evidence of Documents Contained in a Commission Claims File ~~Microfilmed Files~~

- A.** ~~If a document~~ If additional documents contained in a commission claims file, including a transcript ~~transcripts of a prior proceeding, is proceedings,~~ are considered necessary or appropriate for administrative or formal hearing purposes by a ~~any of the interested party parties or administrative law judge, the administrative law judge shall receive a copy of the document into evidence if the document is otherwise admissible.~~
- B.** With the permission of the administrative law judge, instead of submitting a copy of the document into evidence, a party may refer to the document's location on the commission's optical disk imaging system by providing an accurate description of the document that includes the claimant's claim number and image document identification number assigned to the document by the commission. such documents shall be obtained from the Commission microfilm claims file in accordance with the provisions of R20-5-108 and may be submitted in evidence.

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R20-5-110. Employer Duty to Report Fatality ~~Employer's Report; Report of Fatality~~

~~If Every employer, immediately upon the death of an employee dies as a the result of an injury by accident arising out of and in the course of his employment, the employer shall report the such death to the commission's claims division Commission by telephone, or telegram, or electronic filing, no later than the next business day following the death. The report shall state stat- ing the name of the employee, when, how, and where the accident occurred, and the nature of the condition causing the acci- dent. This Section does not limit or affect an employer's duty to report a death to the Arizona Occupational Safety and Health Division of the commission as required under R20-5-637.~~

R20-5-112. Physician's Initial Report of Injury

- A. ~~A physician shall complete and file with the commission a Every physician's initial report of injury under pursuant to A.R.S. § 23-908(A) shall be made on Commission form 102 within 8 eight days after first providing rendering treatment to an injured worker. The physician shall report the injury:~~
- ~~1. Using commission form 102 (worker's and physician's report of injury), or~~
 - ~~2. Attaching to form 102 a medical report that contains the information required in form 102.~~
- B. ~~The physician shall sign and date form 102 or the medical report attached to form 102. The signature of the physician may be typewritten or stamped on this form. Form 102 is available from the Commission upon request. The prescribed form shall be signed and dated by the physician and may be signed by the employee or the employee's authorized representa- tive. Except for the physician, no signatures shall be typewritten or stamped.~~
- C. ~~The injured worker or the injured worker's authorized representative may sign the worker's portion of form 102. If signed, the injured worker or the injured worker's authorized representative shall comply with R20-5-107. Form 102 requests the following:~~
- ~~1. Employee, employer, and insurance carrier identification;~~
 - ~~2. Description of the accident, including date of injury;~~
 - ~~3. Information regarding preexisting conditions the injury, treatment and prognosis.~~

R20-5-113. Physician's Duty to Provide Signed Subsequent Medical Reports; Rating of Impairment of Function; Restriction Against Interruption or Suspension of Benefits; Change of Physician; Employee's Obligation to Follow Treatment; Rating of Impairment of Function

- A. ~~If a claimant's In every case where there is a disability which extends beyond 7 seven days, every physician who attends, treats, or examines the claimant the employee shall provide personally sign (typewritten or stamped signature will not suf- fice) and forward to the insurance carrier, self-insured employer, or special fund division, at least once every 30 days while during the claimant's continuance of the disability continues, a personally signed report describing the:~~
- ~~a. Claimant's employee's condition, the~~
 - ~~b. Nature nature of treatment, the~~
 - ~~c. Expected expected duration of disability, and the~~
 - ~~d. Claimant's prognosis. Upon final discharge of the employee from treatment, the physician shall forward a final signed report to the insurance carrier.~~
- B. ~~When a physician discharges a claimant from treatment, the physician:~~
- ~~1. Shall determine whether the claimant has sustained any impairment of function resulting from the industrial injury. If applicable, the physician should rate the percentage of impairment using the standards for the evaluation of perma- nent impairment as published by the most recent edition of the American Medical Association in Guides to the Eval- uation of Permanent Impairment; and~~
 - ~~2. Shall provide a final signed report to the insurance carrier, self-insured employer, or special fund division that details the rating of impairment and the clinical findings that support the rating.~~
- C. ~~A carrier, self-insured employer, and special fund division shall not interrupt or suspend a claimant's temporary disability compensation benefits because a physician fails to comply with any requirement of subsection (A).~~
- D. ~~A carrier, self-insured employer, and special fund division are not required to pay a physician for services rendered to a claimant until the physician complies with subsection (A).~~
- B. ~~Except as provided by law, an injured employee will not be permitted to voluntarily change from one hospital to another, or from one physician to another, without the written authorization of the insurance carrier, or the Commission. Except as provided in A.R.S. § 23-1070, this subsection does not apply if the injured employee did not select the hospital or physi- cian in the first instance.~~
- E. ~~C. Upon The Commission may, upon application of a an interested party or upon its own motion, the commission shall authorize a change of physician if: order a change of a physician or conditions of treatment~~
- ~~1. The commission determines when there are reasonable grounds to believe that the health, life, or recovery of a claim- ant any employee is retarded, endangered, or impaired;~~
 - ~~2. The thereby, or where the attending physician agrees to the change or is unavailable to continue treatment; ;~~
 - ~~3. The commission determines that the or where the relationship between the attending physician and claimant employee renders further progress or improvement unlikely; -or;~~

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4. ~~The where, in the judgment of the commission Commission, determines that the claimant's~~ his recovery may be expedited by a change of physician or conditions of treatment; or
5. ~~The insurance carrier agrees to the change.~~
- F.** Except as provided in A.R.S. § 23-1070 and this subsection, a claimant who is examined by a physician under A.R.S. § 23-908(E) is not required to obtain written authorization to change to another physician. If, however, the claimant continues to see, or treat with, a physician who was initially seen under A.R.S. § 23-908(E), then that physician is deemed an attending physician for which written authorization to change is required under A.R.S. § 23-1071(B).
- D.** Upon discharge from treatment the physician shall report any rating of any impairment of function as the result of the injury. Any rating of the percentage of impairment should be in accordance with standards for the evaluation of permanent impairment as published by the American Medical Association in Guides to the Evaluation of Permanent Impairment, if applicable. It shall include a clinical report in sufficient detail to support the percentage ratings assigned.

R20-4-114. Examination at Request of Commission, Carrier or Employer; Motion for Relief

- A.** If the ~~commission or a party~~ Commission, carrier, or employer requests an examination of a ~~claimant~~ the employee by a physician, ~~the party requesting the examination shall send the claimant, or if represented, the claimant's attorney,~~ notice of the time, date, place, and ~~physician~~ person conducting the examination ~~shall be sent by the requesting party to the employee, and the employee's his attorney of record at least 15 ten days before prior to the scheduled date of the examination.~~
- B.** If a ~~claimant~~ an employee unreasonably fails to attend or promptly advise of ~~the claimant's~~ his inability to attend an examination ~~under pursuant to this Section rule,~~ the party requesting the examination has the right to charge the claimant or deduct from the claimant's entitlement to present or future temporary or permanent disability compensation, any reasonable expense of the missed appointment, ~~shall be charged to the employee or may be deducted from any present or future entitlement to temporary or permanent disability compensation.~~
- C.** The report of any medical examination scheduled by a party may be offered into evidence by an opposing, adverse party as provided in R20-5-155 or within 5 days after the report is received by the opposing party, subject to the right of cross-examination by the party who scheduled the examination.
- D.** If a carrier, self-insured employer, or special fund division requests an examination of a claimant's mental or physical condition under A.R.S. § 23-1026, the carrier, self-insured employer, or special fund division shall immediately, upon receipt of the report of the examination, provide a copy of the report to the claimant or the claimant's authorized representative. If the mental condition of an unrepresented claimant is examined under A.R.S. § 23-1026, the carrier, self-insured employer, or special fund division may, in its discretion, provide the report to the claimant's treating physician rather than to the claimant.
- E.** ~~To Where justice requires to protect a claimant an employee from annoyance, embarrassment, oppression, or undue burden or expense, the commission Commission may order, upon good cause shown, one or both of the following:~~
 1. That the examination not be held; or
 2. That the examination may be conducted ~~had~~ only on specified terms and conditions, including a designation of the time, place, and examining physician.
- E.** ~~A claimant requesting protection under subsection (E) A motion for relief pursuant to subsection (B) shall file a motion be filed with the presiding administrative law judge or chief administrative law judge if a judge has not been assigned to the case, within 3 two days after a the notice of examination is received. The claimant shall serve a copy of the motion and served on all interested parties, their representatives. The party requesting the examination shall have 3 days after the motion is received to file a response and serve it on the claimant or, if represented, the claimant's attorney of record. If no request for hearing has been filed, then such motion shall be filed with the Chief Administrative Law Judge.~~

R20-5-115. Requests for Out-of-State Medical Treatment Repealed

- A.** ~~An employee whose claim for benefits has been accepted by notice of claim status will not be permitted to leave the state for a period exceeding 2 weeks while he is receiving medical, surgical or hospital treatment except~~
 1. By agreement of the carrier with the concurrence of the Commission or
 2. Upon a showing of compelling circumstances.~~Application for permission to leave the state because of compelling circumstances must be made to the Commission and the written authorization of the Commission must be obtained. This rule shall not apply where the logical or nearest medical facility is situated across a state border.~~
- B.** ~~Failure to receive written authorization of the Commission shall result in forfeiture of the worker's right to compensation and medical benefits during the time the worker is out of the state.~~
- C.** ~~Any aggravation of an employee's disability by reason of his violation of this rule will not be compensated.~~
- D.** ~~If permission has been granted for any employee to leave the state, a petition to reopen may be based on the medical reports or authorized out of state physicians in the same manner as for Arizona physicians pursuant to R20-5-133. Such reports will be considered as evidence unless objected to at least 20 days prior to the 1st scheduled hearing.~~

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R20-5-115. Request to Leave the State

- A.** The effective date of an order granting or denying a request to leave the state under A.R.S. § 23-1071(A) shall be the date a claimant's request is filed with the commission.
- B.** For purposes of A.R.S. § 23-1071(A):
1. "While the necessity of having medical treatment continues" means the period of time in which a claimant asserts an entitlement to temporary compensation, or active medical, surgical, or hospital benefits;
 2. "Leave the state" means across the state border, except when the logical or nearest medical facility is situated across the state border; and
 3. "From the date the employee first requested the written approval" means from the date the claimant's request is filed with the commission.

R20-5-116. Payment of Claimant's Travel ~~Transportation and Living~~ Expenses of Employee When Directed to Report for Medical Examination or Treatment

- A.** If ~~When a claimant is~~ employees are directed by ~~a the Commission, an insurance carrier, or self-insured employer, or special fund division an employer~~ to report for a medical examination or treatment in a locality other than either ~~the claimant's current~~ their place of residence or employment, ~~the carrier, self-insured employer, or special fund division shall pay, in advance, the claimant's travel expenses~~ they shall be entitled to reimbursement for transportation expenses, from either ~~the claimant's current~~ place of residence or employment, whichever route of travel is required. ~~, and for living expenses, if any, incurred by reason of such travel. The employee's place of residence or employment shall be fixed as of the date of injury.~~
- B.** For purposes of this Section, "travel expenses" means those expenses required to be paid under A.R.S. § 23-1026.
- ~~C.~~B. The carrier, self-insured employer, or special fund division, shall calculate travel ~~Transportation and living~~ expenses using shall be determined in accordance with the current rates applicable to state employees. ~~Reimbursement of the expenses shall be made by the insurance carrier or employer.~~**
- ~~C.~~** Upon application by the employee and for good cause shown the Commission may order prepayment of the expenses as set forth in (B) above.

R20-5-117. Medical, Surgical, Hospital, and Burial Expenses

- A.** A carrier, self-insured employer, or special fund division, shall pay bills for medical, ~~Medical~~, surgical, and hospital benefits provided under A.R.S. 23-901 et seq. ~~shall according to applicable be paid in accordance with the various~~ medical and surgical fee schedules adopted by the ~~commission~~ Commission and in effect at the time the services ~~were~~ are rendered. ~~The physician, Physician,~~ nursing, hospital, drug or other medical ~~services provider bills~~ shall itemize and submit a bill be itemized and presented for payment to the responsible carrier, self-insured employer, or special fund division ~~employer, or if he is insured for medical, surgical or hospital benefits, to his insurance carrier.~~
- B.** ~~A~~ The claimant ~~injured employee~~ shall not be responsible to pay for any disputed amounts between the medical provider of service and the ~~insurance carrier, self-insured employer, or special fund division, or employer concerning these fees.~~
- C.** If a claimant ~~In the event the employee or employer has paid a bill described in subsection (A) such items, the responsible carrier, self-insured employer, or special fund division shall reimburse the claimant reimbursement shall be made to the person paying them to the amount extent~~ allowed by the fee schedules, provided that ~~the claimant presents~~ receipted vouchers or ~~other proof of payment to support the bills are presented in support of a claim for reimbursement.~~
- D.** If applicable, if an insured employer has paid a bill described in subsection (A), the responsible carrier or self-insured employer, shall reimburse the employer the amount allowed by the fee schedules, provided that the employer presents receipted vouchers or other proof of payment to support the claim for reimbursement.
- ~~E.~~B. Authorized Any authorized burial expenses expense may be paid directly by the ~~insurance carrier, self-insured employer, or special fund division~~ to the funeral service professional undertaker.**
- F.** If an ~~In the event the employee's dependents have or the employer has~~ paid the burial expenses, the responsible carrier, self-insured employer, or special fund division shall reimburse the dependents the amount they shall be entitled to be reimbursed to the extent authorized by A.R.S. § 23-1046 ~~law~~ provided that the dependents present upon presentation and proof of payment to support the carrier of the claim for reimbursement.
- G.** If applicable, if an insured employer has paid the burial expenses, the responsible carrier or self-insured employer shall reimburse the employer to the extent authorized by A.R.S. § 23-1046 provided that the employer presents proof of payment to support the claim for reimbursement.

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R20-5-118. Effective Date of Notices Notice of Claim Status and Other Determinations; Attachments to Notices of Claim Status; Form of Notices of Claim Status

- A. ~~If Where~~ a notice of claim status accepting a claim for benefits ~~is has become~~ final, any subsequent notice of claim status ~~that which~~ changes a the claimant's amount of, or entitlement to, compensation or medical, surgical, or hospital benefits shall not have a retroactive effect for more than 30 days from the date ~~a carrier or self-insured employer issues the subsequent of issuance of such~~ notice of claim status. ~~This subsection shall not apply to a unless the~~ subsequent notice ~~that~~ affects the entitlement to or amount of death benefits. The ~~commission~~ Commission may for good cause relieve a the carrier ~~or self-insured employer~~ of the effect of this subsection.
- B. If a ~~notice~~ notices of claim status or other ~~determination~~ determinations issued by a carrier, self-insured ~~an~~ employer, or special fund division ~~or carrier, is based are predicated~~ upon a ~~physician's~~ the report of a physician:
1. ~~The carrier or self-insured employer shall attach copy of the such~~ physician's complete report ~~to shall accompany~~ the notice of claim status or other ~~determination~~ determinations sent to the ~~commission; and~~ Commission.
 2. ~~The carrier, self-insured employer, or special fund division shall attach a copy of the physician's complete report to the notice of claim status or other determination served on a party, except as provided in R20-5-114(D). The physician's complete report shall be made available to the applicant upon request.~~
- C. If a carrier, self-insured employer, or special fund division has paid ~~All claims where~~ compensation ~~to a claimant; has been paid~~:
1. ~~The carrier or self-insured employer shall close the claim shall be closed by issuing issuance of~~ a notice of claim status; ~~and~~
 2. ~~The special fund division shall close the claim by issuing a notice of determination. If the claim is closed based upon the report of the physician, a copy of the physician's complete report shall be sent to the Commission together with the notice of claim status.~~
- D. ~~The inadvertent~~ Inadvertent failure of a carrier, self-insured employer, or special fund division to comply with subsection (B) ~~of this subsection~~ shall not affect the validity of a notice ~~or determination of claim status~~ if the ~~employer or carrier, self-insured employer, or special fund division~~ issuing the notice ~~or determination~~ had in its possession a medical report consistent with the notice ~~or determination~~.
- ~~D.~~ A notice of claim status shall contain the following:
1. Employee, employer, insurance carrier, and claim identification;
 2. Information regarding the status of the claim;
 3. Date the notice is mailed;
 4. Name and telephone number of the issuing party; and
 5. Statement regarding hearing and appeal rights with time designations provided by law.

R20-5-119. Notice of 3rd Third Party Settlement

- A. Except as otherwise provided by law, if ~~an employer is insured for workers' compensation insurance and a claimant, an employee, or in the event of death, the claimant's his dependents, elects to proceed against a 3rd third party, the claimant~~ he shall notify the ~~Commission, and the appropriate~~ workers' compensation carrier, ~~or self-insured employer, of any settlement or judgment in the 3rd party such suit and the basis upon which the claimant and 3rd party agree to disburse the proceeds of the such settlement or judgment are agreed to be disbursed.~~
- B. If an employer is uninsured for workers' compensation insurance and a claimant, or in the event of death, the claimant's dependents, elects to proceed against a 3rd party, the claimant shall notify the special fund division of any settlement or judgment in the 3rd party suit and the basis upon which the claimant and 3rd party agree to disburse the proceeds of the settlement or judgment.
- ~~C.B.~~ If a lawsuit is filed against a 3rd ~~third~~ party, it shall be the duty of the ~~claimant employee or the claimant's his~~ attorney ~~shall to provide the workers' compensation carrier with~~ copies of the pleadings and all offers of settlement ~~to the workers' compensation carrier, self-insured employer, or special fund division to whom notice is required under subsections (A) and (B).~~

R20-5-121. Present Value and ; Basis of Calculation of Lump Sum Commutation Awards

- A. ~~The commission shall calculate the present value of an award that is Each award which is commuted to a lump sum under R20-5-122, shall be reduced to its present value. The commission shall not include in the present value calculation compensation Compensation paid before prior to the filing of a lump sum request for a commutation petition, shall be excluded from the calculation of the present value of an award. The commission shall use the filing date of a lump sum commutation petition to compute the present value of an award. Present value shall be computed as of the date following the filing of the request for commutation when the next succeeding installment of compensation would be payable under the terms of the award sought to be commuted.~~

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B. ~~The commission shall calculate~~ Calculation of the present value of an award, whether payable for a period of months or based upon the life of the employee, shall be based upon using the United States Abridged Life Tables, 1996, National Vital Statistics Reports, Vol. 47, Number 13 (incorporated by reference and on file with the Secretary of State) American Experience Table of Mortality or on such other tables as may be approved by the Commission and discounted at the rate established by the commission ~~Commission. This incorporation does not include any later amendment or edition of the incorporated matter. A copy of this referenced material is available for review at the commission and may be obtained from the U.S. Department of Health and Human Services, Centers for Disease Control. Approved Tables For Use under R20-5-121 are incorporated herein by reference and are on file in the office of the Secretary of State~~

R20-5-123. Rejection of the ~~Act~~ Workers' Compensation Law

If an employee serves upon an employer a written notice under A.R.S. § 23-906, ~~in duplicate~~, rejecting the provisions of the Worker's Compensation Law, the employer shall keep thereafter maintain 1 copy of the rejection in the employer's as a part of its or its compensation carrier's business records.

R20-5-124. Rejection Not Applicable to New Employment

- A.** ~~An~~ No election by an employee to reject the ~~Act~~ provisions of the Workers' Compensation Law shall is not be binding upon the employee in a new employment by another employer or following re-employment by the same employer.
- B.** If an employee is continuously employed and the employer changes workers' compensation insurance carriers, or employer entity, the prior rejection is ~~shall be~~ valid and remains ~~remain~~ in full force and effect.

R20-5-125. Rejection Before an Employer Complies with A.R.S. §§ 23-961(A) and 23-906(D) Prior to Employers Securing Insurance

An employee's rejection ~~Rejection of the Act~~ Workers' Compensation Law by received by an employer before the employer complies with the requirements of A.R.S. §§ 23-961(A) or 23-906(D) is employees prior to the time that the employer has complied with the law shall be valid and continues in full force and effect whether the employer subsequently obtains workers' compensation coverage under A.R.S. § 23-961(A), posts the notice required under A.R.S. § 23-906(D), or makes available the forms required under A.R.S. § 23-906(D), provided the employer subsequently procures insurance and complies with the law by posting notices and keeping available forms required by law.

R20-5-126. Revocation of Rejection

- A.** An employee who has rejected the ~~Act~~ provisions of the Workers' Compensation Law may revoke that such rejection by serving upon the employee's his employer an original and 1 copy of a written notice of revocation. The written revocation shall state in duplicate; that the employee revokes the employee's his prior rejection of the ~~Act~~ provisions of the Workers' Compensation Law.
- B.** Within 5 ~~five~~ days after receiving a written notice of revocation, an insured thereafter, the employer, if insured, shall file with the employer's his carrier, or workers' compensation pool, the copy duplicate of the such notice of revocation. The After the serving of such notice upon the employer, the employee shall have all rights to compensation and benefits provided by the Act Workers' Compensation Law for any injury that occurs after the employee serves the revocation notice upon the employer, occurring thereafter.

R20-5-127. Insurance ~~Carrier~~ Carrier's Notification to Commission of Coverage

- A.** Every insurance carrier authorized to underwrite workers' compensation insurance in Arizona shall, within 5 ~~five~~ days after undertaking to insure an employer, report that information to inform the commission ~~Commission of this fact. The carrier shall provide the information This report shall be made on or in the same format as commission~~ ~~Commission~~ form 0006 ~~006~~. Form 0006 ~~006~~ is available upon request from the commission ~~Commission~~.
- B.** ~~Form 006 or a form in the same format shall contain the following:~~
- ~~1. Name and address of the carrier;~~
 - ~~2. Legal name of entity that the carrier is insuring;~~
 - ~~3. All other insured names or subsidiary entities under which the carrier's insured is doing business in Arizona;~~
 - ~~4. Address of all insured entities with insurance policy information for each address.~~

~~B.C.~~ ~~Failure to comply with this Section does rule shall not affect the validity of coverage.~~

~~R20-5-128. Employer's Notification to Commission of Coverage Repealed~~

~~If an employer has been insured with an insurance carrier and that insurance is cancelled or terminated for any reason, the employer shall, prior to the effective date of any cancellation, file a certificate with the Commission designating his new insurance carrier or other satisfactory proof of compliance with the requirements of the Workers' Compensation Law.~~

R20-5-128. Medical Information Reproduction Cost Limitation; Definition of Medical Information

- A.** A provider of workers' compensation benefits shall not charge more than \$.25 per page plus \$10 per hour in associated clerical costs for reproduction of medical information when a request for that information is made under A.R.S. § 23-908(C) by a party, an authorized representative of a party, or an entity that is authorized by a claimant in a workers' compensation matter.

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- B.** This Section applies to all A.R.S. § 23-908(B) health care providers providing medical services to injured claimants including health care providers that contract with copying services, recordkeeping services, or other similar services for the reproduction of medical information. Fees for reproduction of medical information charged by these services are considered for purposes of this Section the same as if the reproduction fees are charged by a health care provider.
- C.** For purposes of this Section, "medical information" means:
1. All communications that are recorded in any form or medium and are maintained for the purpose of patient care, diagnosis, or treatment, including reports, notes, orders, test results, photographs, videotapes, X-rays, and billing records;
 2. A report of independent medical examination that describes patient care or treatment;
 3. A psychological record;
 4. All medical records held by a health care provider including medical records that are prepared by other providers; and
 5. Recorded communications between emergency medical personnel and medical personnel concerning the care or treatment of a person.
- D.** For purposes of this Section, "medical information" does not include:
1. Materials that are prepared in connection with utilization review, peer review, or quality assurance activities, including records that a health care provider prepares under A.R.S. §§ 36-441, 36-445 or 36-2402; and
 2. Recorded telephone and radio calls to and from a publicly operated emergency dispatch office relating to requests for emergency services or reports of suspected criminal activity.

R20-5-129. Carrier ~~Carrier's~~ or Workers' Compensation Pool Determinations Binding upon its Insured or Member; Self-Rater Exception

- A.** The commission shall deem an ~~The~~ insurance carrier ~~or~~ workers' compensation pool ~~of an insured employer shall be deemed the agent of an~~ the employer ~~insured by the carrier or workers' compensation pool.~~
- B.** The commission shall also deem any action or determination ~~and any actions or determinations~~ taken or made by the insurance carrier ~~or~~ workers' compensation pool ~~shall be binding upon the employer. The and the employer may not shall~~ have no right to protest or petition the ~~commission~~ Commission for relief concerning an action or determination ~~such actions~~ taken by ~~the employer's~~ its insurance carrier ~~or~~ workers' compensation pool unless, ~~within the time limit prescribed by A.R.S. § 23-947,~~ the employer notifies the carrier ~~or~~ workers' compensation pool, and the ~~commission~~ Commission in writing that ~~the employer~~ he disagrees with the carrier's ~~or~~ worker's compensation pool's action or determination ~~within the time described in A.R.S. § 23-947.~~

~~C.B.~~ This Section rule does not apply to employers insured under a Self-Rating Insurance Plan.

R20-5-130. Arizona Claims Office Location and Function; Requirements of Maintaining an Out-of-State Claims Office;

- A.** Except as provided in subsection (B), each ~~Each~~ insurance carrier that ~~which is authorized to underwrite workers' compensation insurance and~~ has or is ~~actually~~ underwriting ~~workers' compensation~~ such insurance in Arizona, and each employer ~~and~~ workers' compensation pool that ~~who~~ has been granted authority to act as a self-insurer by the ~~commission~~ Industrial Commission, shall maintain a workers' compensation claims office in Arizona. ~~A carrier, self-insured employer, and self-insured workers' compensation pool shall process and pay workers' compensation claims and maintain where the workers' compensation claims files described in R20-5-131 in its Arizona office. A shall be maintained and where claims shall be processed and paid pursuant to A.R.S. § 23-1062, subsection (C). The carrier, self-insured employer, and self-insured workers' compensation pool shall notify the claims division of the commission~~ Commission of the address of ~~the carrier's, self-insured employer's, and self-insured workers' compensation pool's~~ its claims office. ~~No processing or paying of claims shall occur outside the state of Arizona without the permission of the Commission. Permission will not be unreasonably withheld if claims are being processed in an efficient and timely manner pursuant to the workers' compensation law and these Rules of Procedure.~~
- B.** Except as provided in subsections (C) and (D), a carrier or self-insured employer may request authorization from the commission to maintain an out-of-state claims office. The commission shall grant a carrier or self-insured employer authorization to maintain an out-of-state claims office no later than 20 days after the carrier or self-insured employer provides satisfactory evidence of the following:
1. Existence of a toll-free telephone line to the out-of-state claims office.
 2. Completion of commission claims division's training by the individuals responsible for claims processing at the out-of-state office, and
 3. Designation of a financial institution located in Arizona that will cash on demand checks issued by the out-of-state claims office.
- C.** The commission shall not permit a self-insured workers' compensation pool to maintain a claims office out-of-state.
- D.** The commission shall rescind its authorization to maintain an out-of-state claims office if a carrier or self-insured employer fails to maintain a toll-free number to the out-of-state claims office or fails to process and pay claims as required under the Act and this Article.

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E. A carrier or self-insured employer maintaining an out-of-state claims office shall print the carrier's or self-insured employer's toll-free telephone number to the out-of-state claims office on all notices of claim status or other determinations issued by the out-of-state claims office. The failure to print the toll-free telephone number on a notice or other determination as required by this subsection does not affect the validity of the notice or determination.

~~E.B.~~ For claims processing purposes, unless permission is granted by the Commission, a carrier, self-insured employer, or self-insured workers' compensation pool may have more than 1 designated representative provided the carrier, self-insured employer, or self-insured workers' compensation pool:

1. Notifies the commission at the time an insurance policy is issued or authorization to self-insure is granted; and
2. Notifies the commission each time that the insurance policy or authorization to self-insure is renewed, there shall be no more than one designated representative for each insurance carrier or self-insured employer. Permission will not be unreasonably withheld if claims are being processed in an efficient and timely manner pursuant to the workers' compensation law and these Rules of Procedure.

R20-5-131. Maintenance of Carrier and Self-insured Employer Claims Files File; Contents; Inspection and Copying; Exchange of Medical Reports; Authorization to Obtain Medical Records

A. A carrier and self-insured employer shall maintain a workers' compensation claims file for every claimant. A carrier and self-insured employer shall include in a workers' compensation claims file ~~There shall be maintained at the claims office referred to in R20-5-130 a claims file which shall be the repository of all employer's reports, medical and hospital reports, awards, orders, notices of claims status, wage data, and all other items affecting the claim required by law to be maintained by a the carrier or self-insured employer.~~

B. Subject to the provisions of subsection (C) of this rule, all parties, their authorized representatives and authorized representatives of the commission have the right to inspect and copy items contained filed in a carrier's or self-insured employer's the claims file referred to shall be available for inspection and copying within 5 five working days from the date the item is filed in the claims file, filing by all interested parties, their authorized representatives or authorized representatives of the Industrial Commission.

C. If a claims file is maintained at an out-of-state claims office, the carrier or self-insured employer shall make the claims file available for copying and inspection within 10 days after receiving a request for the file at a location in Arizona designated by the carrier or self-insured employer.

D. A carrier or self-insured employer shall furnish copies of a claims file ~~Copies shall be furnished within 10 days after receiving a upon~~ request at a charge not to exceed \$25 25-cents per page. A carrier or self-insured employer may require prepayment of the copying charges if the requester or authorized representative has an account with the carrier or self-insured employer that is more than 30 days overdue.

~~E.C.~~ A carrier or self-insured employer is not required to maintain in a claims file, or produce for inspection and copying:

1. Documents ~~Documents~~ or matters representing the work product of the insurance carrier or self-insured employer, or
2. Documents or matters representing the work product of a carrier's or self-insured's its attorney, or
3. Investigation and investigation and rehabilitation reports, shall not be considered subject to inspection and copying as provided in subsection (B) hereof and need not be maintained in the claims file.

~~D.~~ If a carrier or employer requests a medical examination of an employee a copy of the report of the examination shall, upon request, be furnished to the employee his attorney. The claimant or his attorney shall furnish to the insurer or employer, upon request, all medical reports of examinations made of the claimant's mental or physical condition which are or may thereafter be in their possession. If such reports are not in his possession, the employee shall provide the employer or carrier with releases authorizing all attending, treating or examining physicians to provide such reports.

F. All medical records concerning an employee's mental or physical condition that are, or may later be, in a party's possession shall be furnished, upon request, to another party in the same commission proceeding.

G. Within 10 days of a request, a claimant shall provide to a party in the same commission proceeding, a release of information authorizing any attending, treating, or examining physician to provide records described in A.R.S. § 23-908(C).

R20-5-133. Claimant's Employee's Petition to Reopen for Reopening of Claim

A. A form for a petition to reopen filed with the commission under A.R.S. § 23-1061(H) Based on New, Additional or Previously Undiscovered Disability or Condition is available upon request from the Commission. The petition shall be in writing, signed, and dated by the claimant employee or the claimant's employee's authorized representative, and shall be accompanied by a statement from a physician setting forth the physical condition of the employee relating to the claim. A petition to reopen form is available from the commission upon request.

B. The form requests the following:

1. Employee, employer, insurance carrier, and claim identification;
2. Disability or medical condition justifying the reopening of the claim;
3. Medical and employment history.

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- ~~C.~~ A Petition to Reopen Based on New, Additional or Previously Undiscovered Disability or Condition not accompanied by a statement from a physician shall not be considered filed until the date of the medical report is received by the Commission.
- ~~B.~~ A claimant shall provide a copy of the medical report supporting the disability or condition justifying the reopening of the claim.
- ~~C.D.~~ If the commission does not receive the medical report described in subsection (B) statement of the physician is not received within 14 days of after the receipt of a petition to reopen ~~Petition to Reopen Based on New, Additional or Previously Undiscovered Disability or Condition~~, the commission ~~Commission~~ shall notify in writing all parties, in writing, that it has received a petition to reopen ~~has been received without the required medical report physician's statement. A carrier or self-insured employer is not required to act on a petition to reopen that is received without the required medical report. No action on the petition shall be required of the insurance carrier or employer.~~
- ~~D.E.~~ If the commission receives a medical report statement of a physician in support of a petition to reopen is received and a claimant does not file a ~~no~~ petition to reopen is filed within 14 days from the date of receipt of the medical report, physician's statement, the commission shall forward the medical report physician's statement shall be forwarded to the insurance carrier or self-insured employer for information purposes only. ~~A carrier or self-insured employer and no action is not shall be required to take any action upon receipt of the medical report. of the insurance carrier or employer.~~
- ~~E.F.~~ If the commission receives a medical report the physician's report in support of a a the petition to reopen is made from an out-of-state a physician residing outside of the state of Arizona and an party objects to the report timely objection is made at least 20 days before a prior to the date of any scheduled hearing to the consideration of the report, the commission shall not consider the report or place the report in evidence such report shall not be considered or placed in evidence unless the party submitting the report produces the author of the report for cross-examination either at the a hearing or at a deposition, held pursuant to these rules. The party submitting into evidence the medical report prepared by an out-of-state physician shall pay the expenses of a deposition under this subsection. Expenses of any deposition shall be borne by the party requesting such deposition.

R20-5-134. Petition for Rearrangement or Readjustment of Compensation Based Upon Increase or Reduction of Earning Capacity

- ~~A.~~ A A form for a petition Petition for rearrangement Rearrangement or readjustment Readjustment of compensation Compensation filed with the commission under A.R.S. § 23-1044(F) based upon an increase or reduction of earning capacity is available upon request from shall be in writing the Commission. A form is available from the commission upon request.
- ~~B.~~ This form requests the following:
- ~~1.~~ Employee, employer, insurance carrier, and claim identification;
 - ~~2.~~ Income and employment history;
 - ~~3.~~ Medical history;
- ~~B.C.~~ A party or a party's authorized representative shall sign a petition for rearrangement and include in the The petition:
- ~~1.~~ A shall be signed by the employee or the employee's authorized representative, the employer, or, in the case of an insurance carrier, by its authorized representative, and shall include a statement of the basis upon which the rearrangement of compensation is sought, and
 - ~~2.~~ Documentation in support of the petition, accompanied by supportive documentary evidence.

~~C.D.~~ No Change.

- ~~D.E.~~ If a self-insured an employer, or insurance carrier, or uninsured employer requests a hearing protesting from the commission's Commission's determination under A.R.S. 23-1044(F) and the claimant employee resides outside of Arizona, the commission Commission may, in its discretion, order the self-insured employer, or insurance carrier, or uninsured employer to pay the claimant's employee's transportation and living expenses to attend ~~for attendance at any scheduled~~ scheduled hearing.

R20-5-136. Time Within Which Requests ~~within which requests for~~ Hearing Shall ~~hearing shall be~~ Filed ~~filed~~

All requests for hearing ~~shall must~~ be filed with the commission Commission as required under A.R.S. § 23-947 or other applicable law, within 90 days after the date of mailing of a determination by an insurance carrier, employer or the Commission.

R20-5-137. Service of a Request ~~Requests for~~ Hearing ~~Timely Filed~~

A party filing a request for hearing shall serve a copy of its request for hearing upon Upon the filing of a request for hearing complying with the requirement of R20-5-135 and R20-5-136, the Commission shall immediately notify all other interested parties, and their authorized representatives of the filing by mailing a copy of the request to them at their last known address. The failure to serve a copy of a request for hearing upon other parties shall not affect the validity of the hearing request.

R20-5-138. Hearing Calendar and Assignment to Administrative Law ~~Judge~~ ~~Judges~~; Notification of Hearing

- ~~A.~~ The chief administrative law judge shall maintain a hearing calendar. The chief administrative law judge shall ensure that a request Requests for hearing filed in accordance compliance with this Article is:

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1. ~~Placed these rules shall be placed~~ on the hearing calendar, ~~and~~
 2. ~~Assigned and shall be assigned~~ to an administrative law judge who shall ~~thereafter~~ be designated as the presiding administrative law judge.
- B. ~~A~~ The presiding administrative law judge ~~may hold a~~ shall set the matter for hearing and notify all interested parties and attorneys of record of the time and place set for the hearing. Notice shall be given at least 20 days in advance of the hearing except in cases concerning suspension of benefits in which case ten days prior notice shall be given. Notice shall be given by mail to the parties' last known address. The hearing may be held at ~~an~~ any earlier date ~~than required under A.R.S. § 23-941(D)~~, however, if all interested parties ~~to in the proceeding proceedings~~ agree.

R20-5-139. Administrative Resolution of Issues by Stipulation Before Filing a Request for Hearing

- A. At any time ~~before prior to~~ the filing of a ~~request~~ Request for ~~hearing~~ Hearing, the parties may ~~resolve issues by written stipulation, if enter into a written stipulation resolving any issue, provided the parties they file the such stipulation with the commission.~~ Commission for approval or ~~such~~ other action as may be appropriate.
- B. ~~Upon the filing of such a stipulation~~ If the commission determines that a written stipulation is reasonably supported by the facts, the ~~commission~~ Commission may ~~approve the stipulation or~~ enter an appropriate award without the necessity of a request for hearing or a formal hearing.

R20-5-140. Informal Conferences

- A. A presiding administrative law judge may hold an informal conference to:
1. Resolve and dispose of disputed issues.
 2. Narrow or limit the scope of the issues to be considered at a subsequent formal hearing.
 3. Simplify the method of proof at a hearing, or
 4. Eliminate the need for hearing if the facts appear to be uncontested.
- B. ~~A~~ If a party may request believes that a pending hearing ~~may~~ be disposed of by an informal conference, by filing a written the party shall advise the presiding administrative law judge of this fact, in writing, and request that:
1. Specifies the purpose for the conference consistent with subsection (A), and
 2. Does not contain any argument regarding the merits of the case. ~~an informal conference be convened. If the presiding administrative law judge determines that an informal conference is appropriate, he shall notify the parties and their authorized representative in writing of the time and place of such conference. Whether or not requested by the parties, the presiding administrative law judge in his discretion may schedule an informal conference upon giving five days notice in writing to the parties of the time and place of the informal conference. This notice requirement may be waived by agreement of the parties and the presiding administrative law judge. Where requested and approved by the presiding administrative law judge, the informal conference may be conducted by telephone.~~
- C. If the presiding administrative law judge determines that an informal conference is appropriate, the judge shall give notice to the parties of the time and place of the conference. The presiding administrative law judge may, without a request from a party, schedule an informal conference by giving 5 days notice to the parties of the time, place, and subject matter of the informal conference. The parties may waive the 5 day notice requirement of this subsection.
- B. ~~If convened, such informal conference shall be for the purpose of resolving and disposing of the issues in controversy; narrowing or limiting of the scope of the matters to be considered at any subsequent formal hearing, simplifying the method of proof at a hearing and eliminating the need for hearing where the facts appear to be uncontested.~~
- ~~D.~~ C. If a presiding administrative law judge disposes of issues the matters in controversy are disposed of at an the informal conference, the presiding administrative law judge may enter an award without ~~the necessity of~~ convening a formal hearing.
- ~~E.~~ D. If a presiding administrative law judge resolves, narrows, or limits ~~Where some, but not all matters in dispute, are resolved or narrowed or limited,~~ the presiding administrative law judge shall prepare and mail to the parties a statement setting forth the issues ~~remaining~~ to be resolved at a formal hearing. The presiding administrative law judge shall limit the formal hearing shall be limited to the issues contained in the statement unless at the formal hearing all ~~interested parties and~~ and ~~with the concurrence of the presiding administrative law judge; agree that the judge may to consider issues beyond the scope of the statement.~~
- ~~E.~~ F. Upon request ~~If requested by a party or upon its own motion,~~ a presiding administrative law judge may order the parties to file a joint statement listing the disputed issues to be considered at formal hearing. The presiding administrative law judge shall give the parties at least 10 days to file the statement and shall order the parties to file the statement 3 to 10 days before the 1st scheduled hearing, and ordered by administrative law judge, upon ten days written notice to the parties by the administrative law judge, the parties shall file a joint statement setting forth the issues which they believe are to be contested. The joint statement provided for herein shall be filed with the Industrial Commission no sooner than ten days not later than three working days prior to the first scheduled hearing.

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R20-5-141. ~~Witnesses; Subpoena Requests for Witnesses; Objection to Documents or Reports Prepared by Out-of-State Witness~~

A. ~~Subpoena requests for witnesses.~~

1. ~~Subpoena request for non-medical witness. A party may request a presiding administrative law judge to issue a subpoena. A request for subpoenas to compel the appearance of a non-medical nonmedical witness by filing a written request with at a hearing shall be made in writing to the presiding administrative law judge at and filed with the Administrative Law Judge Division at least 10 ten days before prior to the date of upon which the 1st first scheduled hearing is scheduled to be held.~~
2. ~~Subpoena request for expert medical witness. A party may request a presiding administrative law judge to issue a subpoena to compel the appearance of an A request for subpoenas for expert medical witness witnesses by filing a written request with the presiding administrative law judge shall be filed at least 20 days before prior to the date of the 1st first scheduled hearing.~~
3. ~~Statement of expected testimony. In the discretion of the presiding administrative law judge, the Upon request of the presiding administrative law judge, may order, the party requesting a that the subpoena to file within 5 days of the order be issued shall present a written statement summarizing stating the substance of the testimony expected of the witness.~~
4. ~~Issuance of Subpoena. A presiding administrative law judge shall issue a subpoena requested under this Section if the judge determines that the testimony of the witness is material and necessary and, if applicable,:~~
 - a. ~~The party files a timely statement under subsection (A)(3); or If a party fails to respond to such request by the presiding administrative law judge within five days, the witness shall not be subpoenaed unless the~~
 - b. ~~The party can show at or before the 1st first scheduled hearing that good cause exists for the party's failure to respond timely to the judge's order under subsection (A)(3) within the pertinent time limit and that the witness is material and necessary. If such testimony appears to be material and necessary, the presiding administrative law judge shall issue the subpoena.~~
5. ~~Service of a subpoena. The commission may serve a subpoena. Service may be made by mail unless in all cases except where the party person requesting issuance of the subpoena requests personal service. If a party requests personal service of a subpoena, the commission shall prepare the subpoena and the party requesting personal service shall:~~
 - a. ~~Ensure that the subpoena is served. Service of a subpoena by personal service shall be made by and at the expense of the party requesting same and may be made in the same manner as in a any civil action, and~~
 - b. ~~Pay all expenses of the service.~~

B. ~~A party does not have a There shall be no right to a continued hearing because on the a subpoenaed witness fails failure of a subpoenaed witness to appear at hearing unless the party filed a timely request for subpoena as required by has been made in accordance with the provisions of subsection (A) hereof. If a party timely requested a subpoena for a witness who fails to appear at a scheduled hearing, the The presiding administrative law judge may, in his discretion, grant a continued hearing if the party requesting the subpoena demonstrates that:~~

1. ~~The testimony of the witness is material and necessary, and~~
2. ~~Good cause is shown as to why the witness failed to appear, based upon failure of the subpoenaed witness to appear on good cause shown.~~

C. ~~Witness Fees.~~

1. ~~If a non-medical witness requests a witness fee, the party requesting the subpoena shall pay the If requested, non-medical witness nonmedical witnesses shall receive the fees and mileage provided for witnesses in civil actions in the Superior Court. The fees shall be paid by the party requesting the subpoena. If more than 1 one party subpoenas the same a witness, the parties fees shall divide the witness fee, be divided between the requesting parties.~~
2. ~~The commission shall pay the witness fee to a medical witness under Medical witness fees paid by the Industrial Commission shall only be in accordance with the commission's Industrial Commission's medical fee schedule after the presiding administrative law judge approves the fee, and must be approved by the presiding administrative law judge.~~

D. ~~Objection to an out-of-state physician's report.~~

1. ~~A presiding administrative law judge shall not consider or place into evidence a A timely filed physician's report ; authored by from a physician residing outside the state of Arizona if to which a party files an timely objection to that report has been made at least 20 days before the prior to the date of any scheduled hearing, shall not be considered or placed in evidence unless the party submitting the report produces the author for cross-examination either at the a hearing or at a deposition, held pursuant to these rules.~~
2. ~~Nothing in R20-5-143(G) shall preclude a party from taking or submitting into evidence a deposition of a physician taken under this subsection.~~
3. ~~The party submitting a report of an out-of-state physician into evidence shall pay the expenses Expenses of a deposition taken under any depositions taken pursuant to this subsection, rule shall be borne by the party requesting such deposition~~

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E. Objection to document prepared by out-of-state non-medical witness.

1. A presiding administrative law judge shall not consider or place into evidence a ~~A~~ timely filed document prepared by a ~~non-medical~~ ~~nonmedical~~ witness who resides outside the state of Arizona if a party files an objection to that document to which objection is made at least ~~7~~ ~~15~~ days before the prior to the date of any scheduled hearing shall not be considered or placed in evidence unless the party submitting the document produces the author for cross-examination either at the a hearing or at a deposition held pursuant to these rules.
2. Nothing in R20-5-143 shall preclude a party from taking or submitting into evidence a deposition within the time limits set by a presiding administrative law judge.
3. The party submitting a document prepared by an out-of-state non-medical witness into evidence shall pay the expenses Expenses of a any deposition under taken pursuant to this subsection. rule shall be borne by the party requesting the deposition.

F. With In lieu of the procedures prescribed in subsections (D) and (E) of this rule and with the approval of a the presiding administrative law judge, the testimony of a party's out-of-state lay or expert witness, either lay or expert, who reside outside the state may be taken telephonically.

R5-20-142. In-State Witnesses' Oral Depositions; In-State

- A.** After a request for hearing has been filed with the Commission, any A interested party may desiring to take the oral deposition of another any other interested party or witness residing in within the state of Arizona by serving a shall file with the presiding administrative law judge, in duplicate, Notice of Taking Deposition by Oral Examination. Copies of such notice shall be served at least ten days prior to the date of the deposition upon the deponent and upon every interested party and his authorized representative. at least 10 days before the date of the by the party desiring to take the oral deposition and at least 40 days before the 1st scheduled hearing. No Notice of Taking Deposition pursuant to this rule shall be filed nor any deposition taken unless the notice of taking deposition is filed at least 40 days prior to the first scheduled hearing.
- B.** A party may file with the presiding administrative law judge a written objection to the taking of an oral deposition within 5 Within five days after service of the Notice of the Taking of Deposition is served, objections to the taking of any oral deposition may be filed with the presiding administrative law judge. If no request for hearing has been filed, the written objection shall be filed with the chief administrative law judge. The party objecting to the deposition shall:
1. State the basis for objecting to the deposition, and
 2. Serve a copy of the party's objections and served on all interested parties, and their authorized representatives. The objections must set forth the basis of the opposition to the deposition. If no request for hearing has been filed, then such objection shall be filed with the chief administrative law judge.
- C.** The oral deposition shall not commence until the presiding administrative law judge rules on the written objection. The presiding administrative law judge shall rule on the written objection objections to the taking of an oral deposition within 7 ten days after the filing of the written objection is filed by: objections. The taking of the oral deposition shall be held in abeyance pending the ruling of the presiding administrative law judge. The presiding administrative law judge shall either order
1. Ordering the deposition to proceed,
 2. Ordering order that the deposition shall not be taken, or
 3. Entering enter any such other appropriate protective order as may be appropriate.
- D.** No change.
- E.** No change.
- F.** A presiding administrative law judge shall not cancel or continue a hearing because a party fails to take or complete a deposition under this Section. No scheduled hearing shall be cancelled or continued for failure to take or complete a deposition taken pursuant to the provisions of this rule.
- G.** A deposition taken under pursuant to the provisions of this Section rule shall only be used to impeach for impeachment of a witness during a hearing, except that, in the exercise of discretion, the presiding administrative law judge may admit a deposition into evidence if: unless
1. The the deponent is deceased at the time of the scheduled hearing, or, in the discretion of the presiding administrative law judge, upon the concurrence of
 2. All all parties involved agree, may be used for any purpose, in which event it shall be admitted into evidence.
- H.** A party may take a telephonic deposition under this Section Depositions by telephonic communications may be permitted. Telephonic depositions may be conducted either by agreement of the parties or by order of the presiding administrative law judge in the exercise of the judge's his sound discretion.

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R20-5-143. Out-of State Witnesses² Oral Depositions; ~~Out-of State~~

- A.** After a request for hearing is filed with the Commission, ~~A~~ any party shall obtain ~~desiring to~~ permission from a presiding administrative law judge before taking an out-of-state ~~take~~ the oral deposition of another ~~any other interested~~ party or witness ~~residing without the state of Arizona by filing a written request with the presiding administrative law judge that contains: shall file with the presiding administrative law judge, in duplicate, a request for permission to take the deposition. Such request shall show~~
1. ~~The~~ the name and address of the witness to be deposed, and shall set forth the
 2. ~~Each~~ reason why the witness' testimony is necessary, ~~for an adjudication of the claim.~~
- B.** The party requesting permission to take the out-of-state deposition shall serve a copy of the request ~~Copies of the request shall be served upon each interested party, and his authorized representative by the party requesting permission to take the deposition.~~
- C.** If no objection to the request for permission to take the deposition is filed under ~~as provided in subsection (D)~~ ~~(B)~~ hereof, the presiding administrative law judge shall may, within 7 ~~ten~~ days from the date of the request, ~~in his discretion~~, grant or deny the permission to take the deposition. ~~If the presiding administrative law judge permits the taking of the deposition, the party proceed in the manner provided by and subject to the limitations of R20-5-142, subsections (A), (D), (E), and (F).~~
- ~~D.~~** ~~A party may file with the presiding administrative law judge a written objection to the taking of an out-of-state oral deposition~~ Objections to the taking of the oral deposition of the party or witness shall be filed with the presiding administrative law judge within 5 five days after being served with a the request to take the out-of state deposition is served. The party objecting to the out-of state deposition shall:
1. State the basis for objecting to the deposition, and
 2. Serve a copy of the party's objections ~~Objections shall be served on all other parties, and their authorized representatives. Written objections shall must set forth the basis for the opposition to the deposition. If no request for hearing has been filed then such objection shall be filed with the chief administrative law judge.~~
- ~~E.~~** ~~The oral deposition shall not commence until the presiding administrative law judge rules on the written objection. The presiding administrative law judge shall rule on the written objection~~ objections to the taking of an out-of-state oral deposition within 7 ten days after the filing of the written objection is filed by: objections. The taking of the oral deposition shall be held in abeyance pending the ruling of the presiding administrative law judge. The presiding administrative law judge shall either-
1. Ordering order the deposition to proceed,
 2. Ordering order that the deposition not be taken, or
 3. Entering enter any such other appropriate protective order, ~~as may be appropriate. Depositions shall be taken in the manner provided by and subject to the limitations of R20-5-133(E), R20-5-141(D) and R20-5-142(A), (D), (E) and (F).~~
- ~~E.~~** ~~A party shall not take more than 2~~ Each party is limited to the taking of two depositions per hearing under pursuant to this Section rule unless a presiding administrative law judge, more are approved upon a showing of good cause, approves the taking of additional depositions, by the presiding administrative law judge.
- ~~G.~~** ~~In the exercise of discretion, the presiding administrative law judge may admit into evidence a~~ Any deposition taken under pursuant to the provisions of this Section if the deposition is rule shall be filed with the commission Commission at least 5 five days before ~~prior to the hearing date of any scheduled hearing or as unless otherwise directed by the presiding administrative law judge, and may be admitted into evidence. If the deposition is not timely filed within the time prescribed under this subsection, the administrative law judge herein, it shall not consider the deposition be considered for any purpose unless the parties and the administrative law judge agree that the deposition may be considered, except by stipulation of all interested parties, and then only with the concurrence of the presiding administrative law judge.~~
- ~~H.~~** ~~Parties may take telephonic depositions under this Section~~ Depositions by telephonic communications may be permitted. Telephonic depositions may be conducted either by agreement of the parties or by order of a the presiding administrative law judge in the exercise of the administrative law judge's his sound discretion.
- I.** A party taking a deposition taken under this Section shall comply with R20-5-142(A), (D), (E), and (F).

R20-5-144. Parties² Written Interrogatories

- A.** After a request for hearing is filed with the commission Commission, any party may serve ~~desiring to~~ propound to another party written interrogatories upon another party. The written interrogatories shall be served at least 40 days before the scheduled hearing, shall file with the presiding administrative law judge a notice of service of interrogatories.
- B.** A party shall not serve more than 25 ~~The written~~ interrogatories, including subsections, submitted pursuant to this rule shall be limited to 25 in number with no subsections. Copies of such interrogatories shall be served upon the party and his authorized representative by the party submitting the written interrogatories. All notices of service of written interrogatories shall be filed at least 40 days prior to any scheduled hearing.

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~~C.B.~~A party shall serve answers. Answers to the interrogatories shall not be filed with the Commission but shall upon be served on all interested parties by the party answering the interrogatories, or within 10 ten days after service of the interrogatories. A party shall not file answers to the interrogatories with the commission, or within ten days after a ruling by the presiding administrative law judge that the interrogatories be answered.

~~D.C.~~A presiding administrative law judge shall not cancel or continue a hearing because a party fails to answer interrogatories under this Section. No scheduled hearing shall be cancelled or continued for failure to answer interrogatories propounded pursuant to the provisions of this rule.

~~E.D.~~A party shall only use written. Written interrogatories served under propounded for discovery pursuant to the provisions of this Section rule shall only be used to impeach for impeachment of a witness during a hearing, except that, in the exercise of discretion, the presiding administrative law judge may admit the interrogatory answers into evidence if unless the party answering the interrogatories is deceased at the time of the scheduled hearing, in which event they may be admitted into evidence.

R20-5-145. Refusal to Answer or ~~Refusal to Attend~~; Motion to Compel; Sanctions Imposed

A. If a party or other deponent refuses to answer any question asked propounded at a deposition under pursuant to R20-5-142 or and R20-5-143, the party asking the question the deposition shall either complete the deposition be completed in other matters or adjourn the deposition, adjourned at the option of the proponent of the question. With On reasonable notice to all persons affected by the deponent's refusal to answer a question, thereby, the party asking proponent of the question may apply to the presiding administrative law judge for an order compelling the deponent to an answer the question.

B. If a party refuses. Upon the refusal of a deponent to answer an any interrogatory served submitted under R20-5-144, the party serving proponent of the interrogatory question may submit the original of the interrogatory interrogatories to the presiding administrative law judge and apply make application for an order compelling the an answer.

C. If a presiding administrative law judge issues an order compelling an answer the motion under subsections (A) or (B) is granted and if presiding administrative law judge finds that a refusal to answer is the refusal was without substantial justification, the presiding administrative law judge shall require the party or witness refusing to answer or party or deponent and the authorized representative party or attorney advising that the party or witness not deponent to refuse to answer, or both of them, to pay to the examining party asking the question: the amount of the

1. Reasonable reasonable attorney's fees incurred to obtain in obtaining the order compelling the answer, and the
2. Reasonable reasonable expenses that expense which will be incurred to obtain the requested answer answers.

D. If a presiding administrative law judge denies a motion to compel an answer under subsections (A) and (B), and the motion is denied and if the presiding administrative law judge finds that the motion was made without substantial justification, the presiding administrative law judge shall require the examining party filing the motion, or the parties' authorized representative attorney advising that the party to make the motion, or both of them, to pay to the party or witness refusing to answer, party or witness the amount of the reasonable attorney's fees incurred in opposing the motion.

~~E.B.~~In addition to the sanctions authorized under R20-5-157, a presiding administrative law judge may, upon request, impose the following sanctions upon a party if the If a party, or an officer or managing agent of that a party, willfully fails to appear for a before an officer who is to take his deposition after being served with the proper notice of the deposition, or fails to serve answers to interrogatories after proper service of the such interrogatories; the presiding administrative law judge on motion and notice may

1. Strike strike out all or any part of a document filed by the party: the pleading, of that party;
2. Dismiss dismiss the action or proceeding, or any part of the action or proceeding; thereof,
3. Order order the suspension or forfeiture of compensation; or ;
4. Preclude or preclude the introduction of evidence.

~~E.C.~~The party filing a motion under subsections (A), (B), or (E) shall attach to the motion:

1. The statement required under R20-5-105(E) and
2. A proposed order that includes the relief requested and a service page with the names and addresses of all parties to be served.

R20-5-146. Use of Depositions of Answers to Interrogatories Repealed

Oral depositions and answers to written interrogatories taken pursuant to this rule may only be used for the purposes set forth in and as provided by these rules.

R20-5-147. Applicability, Videotape Recordings and Motion Pictures

A. A Any party proposing to offer a videotape recording or motion picture into evidence at a commission Commission hearing shall provide written notice to the commission and all parties, at least 40 days before prior to the 1st first scheduled hearing, notify in writing the Commission and all interested parties and their authorized representatives.

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- B. If a party serves a written request to view a videotape recording or motion picture upon the party proposing to submit the videotape recording or motion picture into evidence. Upon written request, the party proposing to offer the videotape recording or motion picture into evidence shall provide the necessary facilities and equipment to allow the other party to view the such videotape recording recordings or motion picture pictures no later less than 25 days before prior to the 1st first scheduled hearing.
- C. A presiding administrative law judge may admit into evidence a videotape recording. Videotape recordings or motion picture if the videotape recording or motion picture: pictures may be admitted into evidence when they are
1. Is a reasonable and accurate faithful representation of the scene, person, object, or action portrayed; and when
2. Will they would aid in the understanding of the issues before the presiding administrative law judge.
- D. The party submitting the videotape recording or motion picture into evidence shall ensure that commentary. Commentary, interrogation, dialogue, or testimony are shall not a be part of the such videotape recording recordings or motion picture pictures.
- E.D. A presiding administrative law judge shall not cancel or continue a hearing because a party fails to view a videotape recording or motion picture as provided in this Section. No scheduled hearing shall be cancelled or continued for failure to view the videotape recordings or motion pictures within the time provided by this rule.
- F.E. This Section does rule shall not apply to:
1. Videotape the videotape recordings or motion pictures obtained by surveillance, or not
2. Videotape videotape recordings or motion pictures of medical procedures performed by a physician licensed physi- cians.

R20-5-148. Burden of Presentation of Evidence; Offer Offers of Proof

- A. A Each party shall rest at the conclusion of the presentation of the party's their evidence. If there is a dispute as to which party shall go forward with the evidence, the presiding administrative law judge shall direct who shall go forward with the evidence.
- B. If a the presiding administrative law judge prohibits witness from answering a question sustains an objection thereby pro- hibiting a party from obtaining an answer from a witness, the presiding administrative law judge party shall permit be per- mitted to make an offer of proof either in the form of an avowal or in writing.

R20-5-149. Presence of Applicant at Hearing; Notice of a Parties' Non-Appearance at Hearing; Assessment of Hearing Costs for Non-Appearance

- A. A claimant The employee, whether or not represented by an attorney, shall appear personally at any hearing without the necessity of subpoena unless excused by the presiding administrative law judge.
- B. Subject to subsection (A), at least 3 days before a scheduled hearing a party shall notify the presiding administrative law judge of any non-appearance by a party or party's authorized representative that requires the judge to cancel or reschedule the hearing.
- C. If a party fails to notify the presiding administrative law judge as required under subsection (B) the presiding administra- tive law judge may designate the party or party's authorized representative responsible to reimburse the commission for hearing expenses and costs incurred by the commission including fees of expert medical witnesses and other witness fees.

R20-5-150. Joinder of a Power to Join Interested Party

- A. An administrative law judge may join as a party applicant or party defendant any person, firm, or corporation, or other entity in favor of whom or against whom a right to relief may appear to exist and over whom the commission Commission may acquire jurisdiction.
- B. Joinder The joinder may be made upon application of any interested party or upon the presiding administrative law judge's own motion, if such joinder appears appropriate.
- C. A Any party seeking to join another person, firm, corporation, or other entity other parties shall file a motion requesting joinder with the presiding administrative law judge at least 30 days before hearing. The moving party shall serve a copy of the motion upon the person, firm, corporation, or other entity for whom joinder is requested, and upon all other parties. make application and serve a copy on the party to be joined. Such application shall be filed with the presiding administra- tive law judge at least 30 days prior to the date set for any hearing.
- D. If the requirements of this Section are met, the Notice of joinder shall be sent by the presiding administrative law judge shall join as a party the person, firm, corporation, or other entity for whom joinder is requested and shall issue a notice advising the parties of the joinder. to the party and such party shall appear and may participate in the proceedings as any other party.

R20-5-151. Special Appearance

Any party against whom a claim before the Industrial Commission of Arizona may appear to exist under the Act, or against whom a contingent liability may appear to exist under the Act, and over whom the commission Commission has not acquired jurisdiction, may enter a special appearance. A special Any appearance made under pursuant to the provisions of this Section rule shall not operate to invoke the jurisdiction of the commission Commission.

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R20-5-152. Resolution of Issues by Stipulation After the Filing of a Request for Hearing Stipulations; Notice of Resolution; Assessment of Hearing Costs

- A. Subject to the requirement of subsection (D), parties ~~Subsequent to the filing of a request for hearing, the parties~~ may stipulate to any ~~fact facts or issue issues~~ after a party files a request for hearing. The ~~Such~~ stipulation may be in writing ~~and made prior to a hearing or may be made orally at the time of hearing.~~
- B. ~~A Any such stipulation is shall be considered~~ binding upon the parties unless a ~~the~~ presiding administrative law judge or the ~~commission~~ Commission grants ~~the parties~~ permission to withdraw ~~the stipulation, therefrom.~~
- C. ~~If a stipulation is not reasonably supported by the evidence, a The~~ presiding administrative law judge or the ~~commission~~ Commission, if he or it feels that the stipulation is not reasonably supported by the facts in evidence, may set aside or refuse to accept ~~the any~~ stipulation and proceed to ~~determine ascertain~~ the true facts.
- D. ~~A party shall notify a presiding administrative law judge of any stipulation, compromise or settlement agreement, or withdrawal of a hearing request that obviates the need for the hearing at least 3 days before a scheduled hearing. Where the written stipulation is not filed with the presiding administrative law judge three working days before the date of a scheduled hearing resolving the issues for which the hearing is has been scheduled, or where the request for hearing has been withdrawn less than three working days before the date of a scheduled hearing,~~
- E. ~~The the~~ presiding administrative law judge may designate the party or parties ~~responsible to reimburse the commission for liability for payment of hearing expenses and costs; incurred by the commission including which shall include the fees of expert medical witnesses and other witness fees if a party fails to notify the presiding administrative law judge as required under subsection (D).~~

R20-5-153. Exclusion of Witnesses

Any party may request that all other witnesses except the parties be excluded from the hearing until called to testify. The presiding administrative law judge may, in ~~the judge's his~~ discretion, grant or deny the request. If the request is granted, the presiding administrative law judge shall admonish the witnesses not to discuss ~~the witnesses' their~~ testimony with anyone other than attorneys on the case.

R20-5-154. Correspondence to Administrative Law Judge

~~A person submitting Copies of any correspondence, including subpoena requests, request for subpoenas directed to an administrative law judge concerning a matter claim pending before the administrative law judge, him shall be sent contemporaneously serve a copy of the correspondence, including the subpoena requests, upon to all other interested parties, or if represented, the parties' and authorized representatives. The administrative law judge shall not consider Such correspondence or subpoena requests shall not be deemed to be evidence except by agreement of all parties to the matter proceeding.~~

R20-5-155. Filing of Medical Reports and Non-Medical Reports Into Evidence; Request for Subpoena Right to Cross-examine Author of Report Submitted into Evidence; Failure to Timely Request Subpoena for Author

- A. Except as provided in R20-5-114(C) a party filing a medical report ~~Medical reports~~ or hospital record into evidence ("medical report") that is ~~records sought to be relied on and~~ not contained in the ~~commission's~~ Commission's claims ~~claim~~ file ~~before prior to filing of a the request for hearing is filed, shall file the medical report with the presiding administrative law judge shall be filed at least 25 days before prior to the date of the 1st any first scheduled hearing.~~ ;
- B. ~~A party filing into evidence a document, report, instrument, or other written matter not described in subsection (A) ("non-medical report") that is not already contained in the commission's claims file, shall file the non-medical report with the presiding administrative law judge at least 15 days before the 1st scheduled hearing.~~
- C. ~~The party filing a medical or non-medical report into evidence shall provide a copy of the report and copies shall be provided to all other interested parties, or their authorized representatives.~~
- D. ~~A presiding administrative law judge shall not receive into evidence any medical or non-medical Any report or hospital record that is not filed so submitted as required under this Section. If shall not be received in evidence and if such report or record has been placed in the commission's claims file, the presiding administrative law judge # shall remove the report be removed and return the report returned to the filing party submitting it.~~
- E. ~~The presiding administrative law judge may suspend the requirements The effect of this Section:~~
- a. ~~Upon a showing of good cause, or~~
- b. ~~If the parties agree that the judge may accept the medical or non-medical report into evidence, rule may be suspended in the sound discretion of the presiding administrative law judge.~~
- F. ~~The party filing a medical or non-medical report or hospital record under pursuant to this Section rule shall file a cover letter with the report stating:~~
- a. ~~The party's identity,~~
- b. ~~The reports filed, and~~
- c. ~~Proof of service of the reports upon the other parties, contemporaneously record his identity and proof of service of copies.~~

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B. ~~All other documents, reports, instruments, and other written matters upon which a party wishes to rely at a scheduled hearing, if not already contained in the claims file, shall be filed with the Commission at least 15 days prior to the date of the first scheduled hearing. Copies shall be sent to all other interested parties or their authorized representatives. The party filing same shall record his identity and proof of service of copies.~~

~~G.C.A~~ ~~Any party seeking desiring to cross-examine the author of any medical or non-medical document, report, instrument or other written matters so filed into evidence shall request a subpoena under in accordance with the provisions of R20-5-141.~~

~~H.D~~ ~~If a party fails to timely request a for subpoena is not made under pursuant to this Section rule and the provisions of R20-5-141, the presiding administrative law judge shall deem the right to cross-examine the author of any medical or non-medical report, document, report, instrument, or other written filed into evidence matters shall be deemed waived and shall consider the medical or non-medical report document may be considered to be in evidence.~~

R20-5-156. Continuance of Hearing

A. A party may request a continuance of a scheduled hearing. For good cause shown, a presiding administrative law judge may grant a request that a hearing be continued. The granting of a continuance of a hearing shall be discretionary with the administrative law judge.

B. If at the conclusion of a hearing a any interested party seeks to continue the desires a further hearing to introduce additional for the purpose of introducing further evidence, the party shall state specifically and in detail:

1. The the nature and substance of the additional evidence,
2. The desired to be produced, the names and addresses of the additional witnesses, and
3. The the reason why the party was unable to produce the such evidence or and such witnesses at the time of the hearing.

C. A presiding administrative law judge may deny a request for a continuance under subsection (B) if If it appears to the presiding administrative law judge determines that, with the exercise of due diligence, the such evidence or testimony could have been produced or the that evidence or testimony would ~~should~~ be cumulative, immaterial, or unnecessary, he may deny the request for a continued hearing.

D. A presiding administrative law judge He may, on the judge's his own motion, continue a hearing and order such further examinations or investigations that as, in the judge determines are his discretion, appear warranted.

~~E.C~~ ~~If more than 40 days before the 1st first scheduled hearing, a presiding administrative law judge reschedules the hearing date is reset, discovery and filing deadlines under this Article these rules shall be calculated with respect to the new hearing date.~~

E. If less than 40 days before the 1st first scheduled hearing, a presiding administrative law judge reschedules the hearing date is reset, discovery and filing deadlines under this Article shall be calculated with respect to the original hearing date.

R20-5-157. Sanctions

A. A presiding administrative law judge may impose the following sanctions against any Any interested party or authorized representative of a party who fails to comply abide with the provisions of this Article or fails to comply with an order of the presiding administrative law judge or commission:

1. Dismissal of the party's request for hearing.
2. Refusal to permit the introduction of evidence by the party, or
3. Assessment of reasonable attorney's fees and costs against the sanctioned party or authorized representative of a party, these rules shall not be permitted to present any evidence at any of the proceedings before the Commission on the claim, or the request for hearing may be dismissed in the discretion of the presiding administrative law judge. The presiding law judge or the Commission may, in his or its sound discretion, relieve the party of the sanctions imposed for his failure to comply with these rules for good cause shown.

B. A presiding administrative law judge or the commission may relieve a party of sanctions imposed under subsection (A) for good cause shown. Sanctions may be granted where an interested party fails to comply with discovery or fails to comply with an order of the presiding administrative law judge or the Commission. Sanctions may include the assessment of reasonable attorney fees and costs or the party may be restricted from presenting evidence as provided in subsection (A) of this rule.

R20-5-158. Service of Awards and Other Matters

A. An Service of any award, decision, order, subpoena, notice, or any other matter required by the Act, this Article, or other law or these rules to be served shall be made upon an interested party or, if represented, and the party's his authorized representative. Service upon the authorized representative shall be deemed service upon the party.

B. Service of any of the matters referred to in subsection (A) hereof may be made and is deemed complete by: enclosing the same, or a copy thereof, in a sealed envelope and

1. Depositing depositing the document or matter the same in the United States mail, with postage prepaid, addressed to the party served Such service may be made to the address of such party as shown by the records of the commission; or Commission. Service shall be deemed complete when the matter to be served is so deposited.

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2. ~~Personal service~~ C. Service of any of the matters referred to in subsection (A), unless otherwise required by law, may also be made personally in the same manner as a summons is served in a civil action, and in such event service shall be deemed complete at the time service is made.

~~C.D.~~ Proof of service may be made by an the affidavit certificate or oral testimony of the person making such service.

R20-5-159. Record for Award or Decision on Review

A presiding administrative law judge shall issue an award or decision upon review under ~~Administrative law judge shall issue an award or decision upon review under~~ issued pursuant to A.R.S. §§ 23-942 or 23-943 shall be based upon:

1. ~~The the~~ record as it exists at the conclusion of the ~~final~~ hearings, ~~held in a proceeding together with and~~
2. Any memoranda as provided under A.R.S. § 23-943(E) by A.R.S. § 23-943(D) or requested by and such memoranda which may be submitted at the discretion of the presiding administrative law judge.

R20-5-160. Application ~~Petitions~~ to Set Attorney Fees Under A.R.S. § 23-1069

- A. If a claimant or his attorney desires that the Commission set an attorney's fee, application shall be filed prior to a final disposition of the claim. For purposes of A.R.S. § 23-1069, "final disposition of a claim" occurs when all compensation benefits have been released to a claimant.
- B. A claimant or attorney filing an application for attorney's fees under A.R.S. § 23-1069 shall serve notice of the application to all parties, including if applicable Notice of such application shall be sent to the insurance carrier, self-insured employer, or special fund division.
- C. Upon the filing of such an application, the attorney and claimant shall, upon the request of the Commission or its authorized representative, provide the information to the commission required to enable the Commission to award reasonable set a just and adequate attorney's fees fee.
- D. Attorney's fees The attorney's fee under this Section may be set by the commission Commission, an the administrative law judge, or other authorized representative of the commission Commission.

R20-5-162. Legal ~~Division~~ department Participation

The chief counsel Chief Counsel and other members of the legal staff of the commission Commission who participate in administrative proceedings or matters under the Act and this Article these rules or at hearings shall do so on behalf of the commission Commission.

R20-5-163. Bad Faith and Unfair Claim Processing Practices

- A. For purposes of A.R.S. § 23-930, an employer, self-insured employer, insurance carrier, or claims processing representative is deemed to have committed "bad faith" if the employer, self-insured employer, insurance carrier, or claims processing representative it has either:
1. Institutes instituted a proceeding or interposes interposed a defense that which is not:
 - a. Well-grounded well-grounded in fact; and
 - b. Warranted warranted by existing law; or is not
 - c. A a good faith argument for the extension, modification, or reversal of existing law;
 2. Unreasonably delays; unreasonably delayed
 - a. Payment payment of benefits; ; or the
 - b. Authorization authorization for, or receipt of, medical benefits or treatment;
 3. Unreasonably underpays unreasonably underpaid benefits;
 4. Unreasonably terminates unreasonably terminated benefits;
 5. Intentionally misleads intentionally misled a claimant as to applicable statutes of limitation, or benefits, or remedies available to the claimant under the Act A.R.S. Title 23, Chapter 6 or under this Article Chapter; or
 6. Unreasonably interferes unreasonably interfered with or obstructs obstructed the claimant's right to choose the claimant's his or her attending physician, except in cases involving a self-insured employer under within the meaning of A.R.S. § 23-1070.
- B. For purposes of A.R.S. § 23-930, an employer, self-insured employer, insurance carrier, or claims processing representative is deemed to have committed "unfair claim processing practices" if the employer, self-insured employer, insurance carrier, or claims processing representative it has either:
1. Unreasonably issues a unreasonably issued any notice of claim status without adequate supporting information in its possession or available to it;
 2. Unreasonably fails unreasonably failed to acknowledge or and act reasonably and promptly upon communications from the commission Commission, an unrepresented claimant, or a claimant's attorney with respect to a claim;
 3. Directly advises directly advised a claimant not to consult or obtain the services of an attorney; or
 4. Communicates communicated directly, for an improper purpose, with a claimant represented by an attorney for an improper purpose.

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- C. A ~~person~~ complainant alleging bad faith or unfair claim processing practices (“complainant”) shall file a written complaint ~~be in writing, signed by the complainant or the authorized representative, and filed with the claims manager of the commission~~ Commission. The complainant, or the complainant’s authorized representative, shall sign the complaint. ~~A copy of the complaint shall be mailed to the person or entity named in the complaint, and to that party’s attorney, if its representation is apparent in the particular case. The complaint form is available on request from the Commission.~~
- D. The complaint shall describe the specific actions of the employer, self-insured employer, insurance carrier, or claims processing representative, that which are alleged to constitute bad faith or unfair claim processing practices. A complaint form is available upon request from the commission.
- E. Upon receipt of a complaint under this subsection, the ~~The~~ claims manager of the commission ~~Industrial Commission~~ shall forthwith serve the complaint upon all interested parties, and their counsel.
- ~~F.D.~~ If the commission ~~Commission~~ acts on its own motion under pursuant to A.R.S. § 23-930(A), the claims manager shall mail a notice of alleged bad faith or unfair claim processing practices to the claimant or the claimant’s attorney and the:
1. Employer ~~employer,~~
 2. Self-insured ~~self-insured~~ employer,
 3. Insurance ~~insurance~~ carrier, or
 4. Claims ~~claims~~ processing representative, and either to the claimant, or to the claimant’s attorney, if the claimant is represented by an attorney.
- ~~G.E.~~ The person or entity named in a complaint or notice served under A.R.S. § 23-930 and this Section ~~An employer, self-insured employer, insurance carrier, or claims processing representative shall file with the claims manager a written response to the complaint or notice, with a copy to the claimant or the claimant’s attorney to a complaint filed with the claims manager within 30 days after service by the commission~~ Commission ~~of the complaint or notice.~~
- H. The person or entity filing a written response shall serve a copy of the response upon the complainant, or the complainant’s attorney, if represented, received pursuant to subsection (C) or (D) of this rule.
- I. If the person or entity named in a complaint or notice served under A.R.S. § 23-930 and this Section fails to file a written response, the commission shall consider ~~Where no written response is filed within 30 days, the absence of such a response shall be taken as a denial of the allegations of the complaint or notice.~~
- J. Upon receipt of a written response, or upon the expiration of 30 days if no response is filed, the commission ~~The Commission~~ shall enter an ~~forthwith~~ the award as it deems, in its discretion, appropriate under A.R.S. §§ 23-930(B) or (C).

R20-5-164. Human Immunodeficiency Virus and Hepatitis C Significant Exposure; Employee Notification; Reporting; Documentation; Forms

- A. An employer ~~Employers~~ subject to the provisions of A.R.S. § 23-901 et seq. Title 23, Chapter 6, Arizona Revised Statutes, shall notify its ~~their~~ employees of the requirements of A.R.S. § 23-1043.02 and § 23-1043.03 by posting the commission ~~Commission~~ notice titled entitled “Work Exposure to Bodily Fluids” in a conspicuous place. This notice shall be conspicuously posted immediately next adjacent to the “Notice to Employees” notice required under by A.R.S. § 23-906(D).
- B. A properly posted ~~The~~ “Work Exposure to Bodily Fluids” notice constitutes, when posted, shall constitute sufficient notice to employees of the requirements of a prima facie case under A.R.S. § 1043.02(B) and § 23-1043.03(B).
- C. An employer’s ~~The~~ insurance carrier, or claims processor, or workers’ compensation pool shall provide the “Work Exposure to Bodily Fluids” notice to the employer. This notice is also available from the commission ~~Commission~~ upon request.
- ~~D.B.~~ An employer ~~Employers~~ shall make readily available to its employees the commission ~~a supply of Commission form described in R20-5-106 forms titled entitled “Report of Significant Work Exposure to Bodily Fluids”, the content of which is described in subsection (D). An employer’s ~~The~~ insurance carrier, or claims processor, or workers’ compensation pool shall provide the “Report of Significant Work Exposure to Bodily Fluids” these forms to the employer. This form is ~~These forms are also available from the commission~~ Commission upon request.~~
- ~~E.C.~~ If an employee sustains ~~In the event of a significant exposure as defined in A.R.S. § 23-1043.02(G) or § 23-1043.03(G), the employee shall complete, date, and sign a “Report of Significant Work Exposure to Bodily Fluids” form. The employee or employee’s authorized representative shall give to the employer the ~~be completed, dated, and signed form. and given to the employer by the employee or the employee’s authorized representative. The employer shall return 1 one copy of the completed form to the employee or to the employee’s authorized representative. Nothing in this subsection limits shall be construed to limit the requirements to report of reporting an injury or file filing a claim under the Act. pursuant to Title 23, Chapter 6, Arizona Revised Statutes.~~~~
- D. In addition to stating the requirements of A.R.S. § 23-1043.02(B), the “Report of Significant Work Exposure to Bodily Fluids” requires the following information:
1. Employee identification;
 2. Employer identification;

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3. Details of the Exposure: Date, time and place of exposure, how exposure occurred, type of bodily fluid(s), source of bodily fluid(s), part(s) of body exposed to bodily fluid(s), presence of break/rupture in skin or mucous membrane, and witnesses (if known).
4. Dated signature of employee or the employee's authorized representative.

F.F. If an employee submits a employee written report of a significant exposure to which is filed with an the employer, but does is not use on the commission ~~Commission~~ form titled entitled "Report of Significant Work Exposure to Bodily Fluids", the employer shall provide the employee with the commission ~~Commission~~ form within 5 ~~five~~ calendar days after ~~from the receiving the employee's initial written employer's receipt of the report.~~

G. The date of the receipt by the employer or its authorized representative of the employee's initial report shall be used to compute the time period prescribed in A.R.S. § 23-1043.02(B)(2) and § 23-1043.03(B)(2) if: so long as

1. The the information contained in the initial report contains the information required in the "Report of Significant Work Exposure to Bodily Fluids" form, meets the requirements of subsection (D) or
2. The the employee gives to the employer the completed commission ~~Commission~~ form within 10 ~~ten~~ calendar days after the employee's receipt of the commission ~~Commission~~ form.

H. Failure or refusal by the employer to provide the commission ~~Commission~~ form to the employee shall not be a defense to a prima facie claim under pursuant to A.R.S. § 23-1043.02(B) and § 23-1043.03(B).

I.F. In investigating the circumstances and facts surrounding an employee's report to an the employer of a significant exposure to bodily fluids under pursuant to A.R.S. § 23-1043.02(C) and § 23-1043.03(C), the employer, or its carrier, or any ~~of their~~ employees, agents or contractors of either the employer or carrier, shall not disclose to any person, except as authorized or required by law, that the reporting employee who made the report of a significant exposure to bodily fluids, or any witness or alleged source of exposure, may have or did contract the human immunodeficiency virus, ~~or~~ acquired immune deficiency syndrome, or hepatitis C. However, an employer, its carrier or their respective attorneys, may:

1. Direct ~~direct~~ an investigating agent to investigate the employee's report of significant exposure to bodily fluids, and may
2. Communicate ~~communicate~~ with the investigating agent about the conduct and results of the investigation.

J. As required under the federal Occupational Safety and Health Standard for Bloodborne Pathogens, 29 CFR 1910.1030, an employer shall pay for the testing required by A.R.S. § 23-1043.02.